

**COLGATE-PALMOLIVE PHILIPPINES, INC., PETITIONER, VS.
COMMISSIONER OF CUSTOMS, RESPONDENT.***G.R. Nos. 240263-64, April 30, 2026*

Ponente: SINGH, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-240263-64/>**SINGH, J.:**

The Court resolves a Petition for Review on Certiorari[1] (Petition) under Rule 45 of the Rules of Court, assailing the Decision,[2] dated January 4, 2018, and the Resolution,[3] dated June 4, 2018, of the Court of Tax Appeals (CTA) En Banc in CTA EB Case Nos. 1471 and 1475. The CTA En Banc affirmed the Decision,[4] dated January 26, 2016, and the Resolution,[5] dated May 6, 2016, of the CTA First Division (CTA Division) in CTA Case No. 7806,[6] which found petitioner Colgate-Palmolive Philippines, Inc. (CPPI) liable to pay respondent Commissioner of Customs (COC) basic deficiency duties and taxes on royalty fees, arrastre and wharfage in the amount of PHP 39,373,571.93, inclusive of the 25% surcharge imposed under Section 248(A)(3)[7] of the National Internal Revenue Code of 1997, as amended, (NIRC),[8] as well as delinquency interest at the rate of 20% per annum on the amount due of PHP 4,842,169.59, computed from June 9, 2008 until full payment, pursuant to Section 249(C)(3)[9] of the NIRC.[10]

The Facts

On October 26, 2006, the COC issued an Audit Notification Letter to CPPI, initiating a post-entry audit covering its imports from October 27, 2003 to October 26, 2006. This was received by CPPI on November 7, 2006.[11]

On May 8, 2007, the Post-Entry Audit Group (PEAG) issued a Summary of Findings recommending the assessment of: (a) PHP 183,701,180.74 in deficiency customs duties on royalties paid to Colgate-Palmolive Company (CPC); and (b) PHP 753,137.61 in deficiency value-added tax (VAT) on arrastre and wharfage fees, both inclusive of two times the penalty.[12]

On June 12, 2007, CPPI objected to the assessment in a letter addressed to Atty. Rolando Ligon, Jr., the Acting Assistant Commissioner-in-charge of PEAG.[13]

However, the PEAG proceeded to issue a Final Audit Report and Recommendations (FARR), assessing a total liability of PHP 204,170,803.00.[14] The COC affirmed the FARR through a letter, dated May 5, 2008, which CPPI received on May 26, 2008.[15]

On June 24, 2008, CPPI filed a Petition for Review with the CTA Division, challenging the assessment of the COC.[16]

CPPI argued that the royalties it paid to CPC should not be added to the transaction value of the imported goods pursuant to Section 201(A)(e)[17] of Republic Act No. 9135 or Tariff and Customs Code of the Philippines, as amended (TCCP), because the same were paid for the use of intellectual property—patents, trademarks and know-how—in the Philippines, and not as a condition for the importation or sale of goods. Since the royalty it paid to CPC is "not inextricably intertwined with the production of the imported merchandise," the same is not

dutiable.[18]

Citing *In Re: Estee Lauder Pty. Limited*[19] and U.S. Customs Ruling HQ H024566,[20] CPPI argued that royalties will only form part of the price of the goods imported if they are so closely connected with the contract for which the goods are imported, such that they form a "single transaction," and royalties paid under a license for a single right, that is the right to manufacture, may be excluded.[21] CPPI averred that these rulings are applicable to its case, where the royalty payments are in consideration of its right to use the intellectual property of CPC in the Philippines, and not for the importation of specific goods for sale in the Philippines.[22]

CPPI likewise argued that it is not liable for deficiency VAT on wharfage fees and arrastre charges. CPPI contended that these fees do not fall under "other charges" under Section 107(A) of the NIRC under the principle of *eiusdem generis*, since they are not similar in nature to customs duties or excise taxes. Moreover, since wharfage and arrastre fees are computed based on the quantity, weight, or measurement of the cargo—and not on the dutiable value of the goods—the inclusion of royalty payments in the dutiable value could not have led to a deficiency VAT on these fees, as the royalties had no effect on the physical volume or measurement of the imported goods.[23] CPPI also asserted that the assessment of deficiency VAT on these fees will amount to double taxation since it will be on top of wharfage fees it pays to the Philippine Ports Authority (PPA), and arrastre fees to International Container Terminal Services, Inc. (ICTSI).[24]

Lastly, CPPI claimed that the imposition of the 20% delinquency interest on the alleged deficiency VAT was erroneous because the notice and demand to pay the same was made by the COC, and not by the Commissioner of Internal Revenue (CIR), as supposedly required under Section 249(C)(3)[25] of the NIRC.[26]

The Ruling of the CTA Division

In the Decision,[27] dated January 26, 2016, the CTA Division partially granted CPPI's Petition for Review:

WHEREFORE, premises considered, the Petition for Review is hereby PARTIALLY GRANTED. Accordingly, [CPPI] is hereby ORDERED to PAY [the COC] the basic deficiency duties and taxes on royalty fees, arrastre and wharfage in the amount of [PHP]39,373,571.93, inclusive of the 25% surcharge imposed under Section 248(A)(3) of the [NIRC], computed as follows:

Basic Tax Due

25% Surcharge

Total

I. Deficiency Duties and Taxes on Royalty Fees

Customs duty

[PHP]

34,531,402.34

[PHP]-

[PHP]

34,531,402.34

VAT on duty

[PHP]
3,622,689.80

[PHP]
905,672.45

[PHP]
4,528,362.25

II. Deficiency VAT on Arrastre & Wharfage

VAT

[PHP]
251,045.87

[PHP]
62,761.47

[PHP]
313,807.34

Total Assessment

[PHP]
38,405,138.01

[PHP]
968,433.92

[PHP]
39,373,571.93

In addition, [CPPI] is liable to pay delinquency interest at the rate of 20% per annum on the amount due of [PHP]4,842,169.59, computed from June 9, 2008 until full payment thereof, pursuant to Section 249(C)(3) of the [NIRC].

SO ORDERED.[28] (Emphasis in the original)

The CTA Division held that the royalty payments made by CPPI to CPC formed part of the dutiable value of imported goods under Section 201 of the TCCP. Applying the three-part test—(1) the royalties are related to the goods being valued (relationship test); (2) the royalties are paid by the buyer directly or indirectly (payment test); and (3) the payment of royalties is a condition of sale of the goods to the buyer (condition test)—all the requirements are satisfied.[29]

A review of the Memorandum of Agreement (MOA) between CPPI and CPC, and its Addendum I (Patents Contract) and Addendum II (Trademarks Contract), reveals that: (1) the royalties were related to the imported goods since these were computed at the rate of 5% of CPPI's net sales of licensed products, without distinction as to the source of the products sold whether imported or locally manufactured; (2) the royalties were paid by CPPI to CPC; and (3) the payment of royalties were a condition of sale, as failure to pay could result in termination of the licensing agreement. Thus, without the royalties, CPPI could not have sold the licensed products in the Philippines under the trademark of CPC. The CTA Division also noted that CPPI did not present evidence to establish that the imported products would have been sold separately in the Philippines under a different brand other than that of CPC. Accordingly, the royalty payments are dutiable.[30]

However, the CTA Division noted that a portion of the royalty payments were for locally manufactured products, and thus not subject to customs duties and corresponding VAT.[31] After reviewing CPPI's import records from the fourth quarter of 2003 to the third quarter of 2006, the CTA Division determined that CPPI's total importations (excluding capital goods) amounted to PHP 7,929,015,520.02. Including freight charges of PHP 73,502,445.00, the adjusted total reached PHP 8,002,517,965.02. Upon further verification, PHP 46,439,545.34 worth of importations from non-CPPI entities lacked supporting documents, prompting the CTA Division to treat that amount as part of CPPI's importations from CPPI entities, resulting in an adjusted importations of PHP 6,436,653,397.01. Using a 46.6% cost ratio, the equivalent sales value was computed at PHP 13,812,560,937.79, and applying the 5% royalty rate, the dutiable royalty base was set at PHP 690,628,046.89. Accordingly, the CTA Division held CPPI liable for deficiency customs duties of PHP 34,531,402.34 and PHP 3,622,689.80 on the royalty payments.[32]

The CTA Division also upheld the imposition of VAT on arrastre and wharfage fees, ruling that under Section 107 of the NIRC, these fall within the meaning of "other charges" added to the importation value. Rejecting CPPI's claim of double taxation, the CTA Division explained that the VAT imposed under Section 107 on importation is distinct from that under Section 108, which covers services rendered by the PPA and ICTSI. Since CPPI is the importer and not the service provider, there was no duplication in the tax base or subject matter.[33] The subject matter of Section 107 of the 1997 NIRC is the importation of goods, the tax base of which is the total value used by the BOC in determining tariff and customs duties, plus customs duties, excise taxes, if any, and other charges. In Section 108 of the 1997 NIRC, the subject matter is the sale or exchange of services, including the use or lease of properties, and the tax base thereof is the gross receipt derived from such sale or exchange of services. More, CPPI is not the taxpayer under Section 108 of the NIRC, considering it merely shouldered the tax burden passed on by the sellers of the service, the PPA and ICTSI.[34]

As to penalties, the CTA Division ruled that the surcharge was valid, but the absence of evidence showing compliance with procedural requirements under Customs Memorandum Orders No. 1-2002 and 2-2002 barred the imposition of additional penalties without violating due process.[35]

In the Resolution,[36] dated May 26, 2016, the CTA Division denied the parties' Motions for Partial Reconsideration.[37] It reaffirmed that only royalties related to imported goods were dutiable, and denied the COC's argument to assess duties on the full royalty amount of PHP 1,249,810,687.75. With regard to CPPI's objection on the imposition of delinquency interest on VAT, it ruled that the power of the COC to assess and collect taxes, necessarily includes the authority to assess and collect penalties imposed under Section 249(C)(3) of the 1997 NIRC.[38]

CPPI and the COC both filed Petitions for Review with the CTA En Banc.[39]

The Ruling of the CTA En Banc

In the Decision,[40] dated January 4, 2018, the CTA En Banc denied the Petitions in Review for being mere reiterations of the same arguments already considered by the CTA Division.[41] The dispositive portion reads:

WHEREFORE, premises considered, the Petitions for Review are hereby DENIED for lack of merit. Accordingly, the Decision[,] dated January 26, 2016, and the Resolution[,] dated May 26, 2016, both promulgated by the First Division of the [CTA], are hereby AFFIRMED.

SO ORDERED.[42] (Emphasis in the original)

After a re-evaluation of the documents presented, the CTA En Banc affirmed the CTA Division's finding that the royalties paid by CPPI to CPC are dutiable under Section 201(A)(1)(e) of the TCCP, having met all three requisites for dutiability: (1) the royalties were related to the imported goods; (2) the royalties were paid by CPPI

to CPC; and (3) payment of royalties was a condition of the sale, as evidenced by provisions in the MOA that allowed CPC to terminate the agreement if CPPI failed to pay.[43]

The CTA En Banc rejected CPPI's claim that royalties were paid only for the right to use intellectual property, as a reading of the MOA reveals that payment of the same is inseparable from the purchase of CPC's products.[44] It dismissed CPPI's reliance on a letter from CPC, dated May 17, 2007, stating that "the payment of royalty is not a condition for the sale of any goods to CPPI" as self-serving, and emphasized that CPPI presented no proof that the goods could be sold under a different brand.[45]

The CTA En Banc also agreed with the Division's application of the Independent Certified Public Accountant's (ICPA) method of computing the dutiable portion of royalties, ruling that only the royalties attributable to imported goods should be taxed – not the full PHP 1,249,810,687.75 royalty paid, which also covered locally manufactured products.[46]

Thus, the CTA En Banc affirmed that CPPI is liable for deficiency customs duties and VAT on royalty paid to CPC.[47] It further sustained the ruling that arrastre and wharfage fees are "other charges" subject to VAT under Section 107 of the NIRC, and found no merit in CPPI's claim of double taxation.[48]

Presiding Justice Roman G. Del Rosario (Presiding Justice Del Rosario) issued a Concurring Opinion,[49] and Associate Justice Ma. Belen M. Ringpis-Liban (Associate Justice Ringpis-Liban) issued a Concurring and Dissenting Opinion.[50] The latter agreed with the dismissal of the Petitions for Review, but disagreed with the non-imposition of deficiency interest on the basic deficiency VAT on royalty, arrastre and wharfage fees assessed against CPPI.[51] In his Concurring Opinion, Presiding Justice Del Rosario addressed this argument, emphasizing that under Section 249(B) of the NIRC, deficiency interest applies only to taxes expressly defined in the Code, namely, income tax, estate tax, and donor's tax.[52] He stressed that deficiency interest cannot be presumed and must be grounded on clear statutory authority.[53] While other penalties like surcharges and delinquency interest under Sections 248 and 249(C) apply more broadly, the imposition of deficiency interest is strictly limited.[54] Thus, imposing a 20% per annum deficiency interest on VAT, in addition to delinquency interest and surcharges, would be excessive and unsupported by law. Invoking the principle that tax statutes must be strictly construed against the government, Presiding Justice Del Rosario concluded that the law does not authorize deficiency interest on VAT and reiterated that such burdens must not be presumed.[55]

CPPI and the COC filed Motions for Reconsideration, which were denied in the Resolution,[56] dated June 4, 2018, for failing to raise any new or compelling reason to justify a modification or reversal of the CTA En Banc's findings.[57]

Aggrieved, CPPI filed the present Petition, reiterating its position that: (1) the royalty payments to CPC are not dutiable under Section 201 of the TCCP[58] as they are "not inextricably intertwined" with CPPI's importations;[59] (2) the VAT imposed on arrastre and wharfage fees does not qualify as "other charges" under Section 107 of the NIRC,[60] and constitutes double taxation;[61] and (3) it cannot be held liable for delinquency interest on deficiency VAT on said fees, since the notice and demand were issued by the COC and not the CIR, in supposed violation of Section 249(C)(3) of the NIRC.[62]

The Issues

(1) Did the CTA En Banc err in affirming the CTA Division's ruling that the royalty payments made by CPPI to CPC are dutiable under Section 201 of the TCCP?

(2) Did the CTA En Banc err in upholding the imposition of VAT on arrastre and wharfage fees under Section 107 of the NIRC?

(3) Did the CTA En Banc err in sustaining the imposition of delinquency interest on the assessed deficiency VAT on arrastre and wharfage fees?

The Ruling of the Court

The Court notes that the issues raised in this Petition are a mere rehash of those previously raised in the appeals of the CPPI before the CTA Division and CTA En Banc.[63]

The argument against the finding that the CPPI's royalty payments to CPC are dutiable under Section 201 of the TCCP also requires a review of the facts and documents presented, and therefore not proper under Rule 45 of the Rules of Court.[64] The Court is not a trier of facts.[65] It is not the Court's function to weigh all over again the evidence already considered by the lower tribunals.[66] While there are exceptions to the rule,[67] such exceptions must be alleged, substantiated and proven by the party invoking them so this Court may review the facts of the case.[68] None of these exceptions were raised by CPPI or are present in this case. More, the issue was already thoroughly addressed by the CTA in both Division and En Banc.[69] As a highly specialized court particularly created for the review of tax and customs cases, it is well established that the CTA's findings and conclusions are accorded great respect and finality by this Court, absent a clear showing of a reversible error or grave abuse of authority.[70]

The Petition failed to sufficiently show any reversible error or abuse of discretion in the CTA En Banc Decision as to warrant the exercise of the Court's discretionary appellate jurisdiction.

Dutiability of CPPI's royalty payments under Section 201 of the TCCP

The Court affirms the ruling of the CTA Division, affirmed by the CTA En Banc, that the royalty payments made by CPPI to CPC form part of the dutiable value of imported goods under Section 201(A)(l)(e) of the TCCP, as amended.[71]

Section 201 of the TCCP sets out the rule on customs valuation, the relevant portion of which states:

SEC. 201. Basis of Dutiable Value. – (A) Method One. – Transaction Value. – The dutiable value of an imported article subject to an ad valorem rate of duty shall be the transaction value, which shall be the price actually paid or payable for the goods when sold for export to the Philippines, adjusted by adding:

(1) The following to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods:

....

(e) The amount of royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods to the buyer. (Emphasis supplied)

Customs Administrative Order (CAO) No. 4-2004,[72] implementing the above Section 201 of the TCCP, likewise provides:

SEC. II. Dutiable Value

....

B. Method 1 – The Transaction Value

1. The dutiable value of an imported article shall be the Transaction Value which is the price actually paid or

payable for the goods when sold for import to the Philippines adjusted in accordance with the provisions of Section II.B.3 of this Order, and subject to the conditions specified in Section II.B.2 herein.

....

3. In determining the Transaction Value, the following adjustments shall be added to the price actually paid or payable for the imported goods being valued if such value has not been included in the price actually paid or payable:. . .

e. Royalties and license fees related to the goods being valued;

Section 201 of the TCCP was amended by Republic Act No. 9135.[73] This piece of legislation was intended to align with the World Trade Organization (WTO) Valuation Agreement.[74] In the sponsorship speech of then Representative Danilo Suarez, chairperson of the House Committee on Ways and Means, he stated that House Bill No. 8623, which would eventually become Republic Act No. 9135, was proposed to "further amend certain provision[s] of the [TCCP], as amended, by deleting [] provisions which are inconsistent with the WTO Valuation Agreement[.]"[75]

Indeed, the text of Section 201(A)(l)(e) of the TCCP is similar to Article 8(l)(c) of the WTO Valuation Agreement, as follows:

Section 201(A)(l)(e) of the TCCP

Article 8(l)(c) of the WTO Valuation Agreement

A. Method One. – Transaction Value. – The dutiable value of an imported article subject to an ad valorem rate of duty shall be the transaction value, which shall be the price actually paid or payable for the goods when sold for export to the Philippines, adjusted by adding:

1.

The following to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods:

....

e.

The amount of royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods to the buyer.

1. In determining the customs value under the provisions of Article 1, there shall be added to the price actually paid or payable for the imported goods:

....

(c)

royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable.

The three-pronged test adopted by the CTA Division and En Banc were evidently lifted from the text of Section 201(l)(e) of the TCCP. Under this test, royalties are dutiable if: (1) they are related to the goods being valued (relationship test); (2) they are paid by the buyer to the seller, directly or indirectly (payment test); and (3) the payment is a condition of the sale of the goods to the buyer (condition test).[76] Considering that the transaction

value method under Section 201(A)(1)(e) of the TCCP is based on Article 8(1)(c) of the WTO Valuation Agreement, interpretations of the latter would be useful in guiding the Court in applying the three-pronged test.

First, under the relationship test, international commentators have observed that "[i]f the imported goods are themselves subject of the license, then the payment is clearly 'related to the goods being valued.' For example, a royalty 'is related to the goods being valued' if the imported goods themselves bear the licensed trademark or are manufactured using a licensed patent or know-how." [77]

Under the MOA between CPPI and CPC, the royalties were computed at 5% of CPPI's net sales of licensed products, regardless of whether these products were imported or locally manufactured. [78] Clause 10 of the MOA reads: "in consideration of the rights hereby granted to [CPPI], [CPPI] shall pay to [CPC] as royalty, exclusive of [VAT], 5% of its total Net Sales of Licensed Products." [79] This is also supported by the testimony of CPPI's witness, who admitted that the royalties were paid by CPPI to CPC "for the patents, trademarks, trade names, packaging and trade dress and know-how in the Philippines of CPC pursuant to the [MOA]." [80] Thus, the royalties that CPPI is required to pay to CPC also includes the use of the intellectual property associated with or related to the imported goods.

Second, it is undisputed that CPPI paid the royalties directly to CPC. [81] Thus, the payment test was met.

Third, under the condition test, it must be established that the payment of the royalties is a pre-requisite for the sale of the imported goods. The pivotal question that must be answered in this test is this: "could the buyer purchase the imported goods without paying the royalty? If not, the royalty amount is paid for the goods, and must be added to the price." [82] For example, if the terms of the sale includes a provision explicitly providing that the failure to pay the royalty shall terminate the seller's obligation to deliver the goods, [83] then it is an indication that the sale is conditioned upon the payment of the royalties.

In this case, the MOA indicates that the payment of royalties is a condition of the licensing arrangement, as CPC may terminate the agreement upon CPPI's failure to pay the same. [84] Clauses 18 and 19 of the MOA provide:

18. This agreement shall remain in force for a period often (10) years unless earlier terminated as of the last day of any month by at least sixty days' prior written notice by either party. Subject to the approval of the Intellectual Property Office, this agreement may be renewed under such terms and conditions as may be agreed upon by the parties. If [CPPI] fails to pay the royalty herein provided or to observe the standards specified by [CPC] or otherwise violates the terms of this agreement in any way, [CPC] may terminate this agreement forthwith by written notice to [CPPI], provided, however, that [CPC] may terminate this agreement forthwith if [CPPI] ceases to be controlled by [CPC]

19. When and if this agreement shall be terminated for any cause whatever, all rights granted hereunder shall automatically revert to [CPC] and [CPPI] agrees that it will promptly desist from the use of the trade names "Colgate" and "Palmolive" as well as all the Patents and Trademarks licensed hereunder including the goodwill of the business with which such trademarks are used provided that such trade names are covered by valid industrial property rights in the name of [CPC] at the time of the termination of this Agreement ... [85] (Emphasis supplied)

The Court thus agrees with the CTA Division and En Banc that payment of the stipulated royalty is inseparable from the purchase of CPC's goods. CPPI must pay for the same, otherwise, the MOA may be terminated. [86] Moreover, CPPI failed to prove that the imported goods could be purchased and sold without the payment of royalties or that it could have sold them under a different brand. [87]

All told, the CTA correctly ruled that the subject royalty payments are dutiable.

The Court likewise sustains the exclusion of royalty payments attributable to locally manufactured goods. [88]

arriving at a total royalty base of PHP 690,628,046.89 for the computation of customs duties.[89] Suffice to say that goods manufactured in the Philippines are not importations subject to customs duties. Thus, CPPI was correctly assessed deficiency customs duties of PHP 34,531,402.34 and VAT of PHP 3,622,689.80.[90]

VAT on arrastre and wharfage fees under Section 107 of the NIRC

The Court also affirms the ruling that VAT was properly imposed on arrastre and wharfage fees as "other charges" under Section 107(A) of the NIRC.[91] The plain text of Section 107 states that the VAT base for importation includes "the total value used by the Bureau of Customs in determining tariff and customs duties, plus customs duties, excise taxes, if any, and other charges," as follows:

Section 107. Value-Added Tax on Importation of Goods. –

(A) In General. – There shall be levied, assessed and collected on every importation of goods a value-added tax equivalent to ten percent (10%) based on the total value used by the Bureau of Customs in determining tariff and customs duties plus customs duties, excise taxes, if any, and other charges, such tax to be paid by the importer prior to the release of such goods from customs custody: Provided, That where the customs duties are determined on the basis of the quantity or volume of the goods, the value-added tax shall be based on the landed cost plus excise taxes, if any ... (Emphasis supplied.)

Implementing the above provision, Section 4-1.07-1(a) of Revenue Regulations No. 16-2005[92] provides:

SEC. 4.107-1. VAT on Importation of Goods. –

(a) In general. – VAT is imposed on goods brought into the Philippines, whether for use in business or not. The tax shall be based on the total value used by the BOC in determining tariff and customs duties, plus customs duties, excise tax, if any, and other charges, such as postage, commission, and similar charges, prior to the release of the goods from customs custody.

In case the valuation used by the BOC in computing customs duties is based on volume or quantity of the imported goods, the landed cost shall be the basis for computing VAT. Landed cost consists of the invoice amount, customs duties, freight, insurance and other charges. If the goods imported are subject to excise tax, the excise tax shall form part of the tax base. (Emphasis supplied)

The Court has previously defined wharfage charge as the "charge for use of wharf by way of rent or compensation[;]" "money paid for landing goods upon, or loading them from a wharf[;]" or the "fee or duty paid for the privilege of using a wharf[.]"[93] Meanwhile, an arrastre charge is a fee paid for the "hauling of cargo, [which] comprehends the handling of cargo on the wharf or between the establishment of the consignee or shipper and the ship's tackle." [94]

Both wharfage and arrastre fees are charges necessary to bring the imported goods out of the vessel and into possession of the consignee prior to their release from customs custody. Thus, following the verba legis rule, "other charges" clearly encompasses fees that are part of the importation process, including those imposed for arrastre and wharfage. As the COC pointed out, had the legislature meant to limit the tax base to fiscal imposts, it could have easily stated "other taxes and duties." [95]

Likewise, the Court agrees that there is no double taxation. There is double taxation if "there are two taxes imposed on the same subject matter, for the same purpose, by the same taxing authority, within the same jurisdiction, during the same taxing period, and the taxes must be of the same kind or character." [96] Section 107 of the NIRC applies to importation of goods, while Section 108 covers the sale or exchange of services. CPPI, as

importer, is taxed under Section 107, while the PPA and ICTSI, as service providers, are liable under Section 108. The incidence and subject of tax are different, precluding any finding of double taxation.[97]

Imposition of deficiency and delinquency interest on deficiency VAT

The Court also affirms the ruling of the CTA En Banc sustaining the imposition of delinquency interest under Section 249(C)(3) of the NIRC.[98]

The Court agrees with the CTA Division and En Banc that the power of the COC to assess and collect taxes, such as VAT on importation under Section 107 of the NIRC, necessarily includes the authority to assess and collect penalties incident to such tax under Section 249 (Interest) of the NIRC.[99] This includes the imposition of delinquency interest where the taxpayer fails to pay the amount due despite proper notice and demand. Indeed, the determination of a taxpayer's liability to the government is not limited to the basic tax due but also includes the applicable additions to the tax, such as interest and civil penalties.[100]

However, the CTA declined to impose deficiency interest on the ground that such interest applies only to deficiency income tax, estate tax and donor's tax. In his Concurring Opinion,[101] Presiding Justice Del Rosario reasoned that Section 249(B)[102] on deficiency interest applies only to "any deficiency in the tax due, as the term is defined in this Code," thus, only to deficiency donor's, estate and income taxes. He further posited that while Section 247(a)[103] states that additions to tax apply to "all taxes," this provision should be read in conjunction with Section 249(B), which he construed as limiting the application of deficiency interest to deficiencies in taxes defined in the Code.[104] This restrictive interpretation cannot be sustained.

As pointed out by Associate Justice Alfredo Benjamin S. Caguioa during the deliberations on this case, the text of the NIRC does not support a limitation of deficiency interest to only certain types of taxes. Section 249(A) expressly provides that interest shall be assessed and collected on "any unpaid amount of tax" from the date prescribed for payment until full payment. Read together with Section 247(A), which states that additions to the tax, including interest, "shall apply to all taxes, fees and charges imposed in this Code," the statutory framework shows a clear legislative intent that interest applies across all internal revenue taxes, including VAT.[105]

Associate Justice Japar B. Dimaampao also aptly observed that while the Titles governing VAT and other internal revenue taxes do not contain an express definition of "deficiency," unlike the chapters on income tax, estate tax and donor's tax, this does not render deficiency a concept exclusive to the latter.[106] Rather, legislative history shows that Congress precisely addressed this structural gap when it introduced Section 247(A) as a revision to the 1977 NIRC, and later reenacted in the 1997 NIRC:[107]

The state of the present law tends to reinforce our conclusion that Section 51 (c) and (e) of the 1977 Tax Code did not authorize the imposition of a surcharge and penalty interest for failure to pay the thirty-five percent (35%) transaction tax imposed under Section 210 (b) of the same Code. The corresponding provision in the current Tax Code very clearly embraces failure to pay all taxes imposed in the Tax Code, without any regard to the Title of the Code where provisions imposing particular taxes are textually located. Section 247 (a) of the NIRC, as amended, reads:

"Title X.

Statutory Offenses and Penalties

Chapter I

Additions to the Tax

Section 247. General Provisions. – (a) The additions to the tax or deficiency tax prescribed in this Chapter shall apply to all taxes, fees and charges imposed in this Code. The amount so added to the tax shall be collected at the same time, in the same manner and as part of the tax....

Section 248. Civil Penalties. – (a) There shall be imposed, in addition to the tax required to be paid, penalty equivalent to twenty-five percent (25%) of the amount due, in the following cases:

....

(3) failure to pay the tax within the time prescribed for its payment; or ...

(c) the penalties imposed hereunder shall form part of the tax and the entire amount shall be subject to the interest prescribed in Section 249.

Section 249. Interest. (a) In General. There shall be assessed and collected on any unpaid amount of tax, interest at the rate of twenty percent (20%) per annum or such higher rate as may be prescribed by regulations, from the date prescribed for payment until the amount is fully paid ..."

In other words, Section 247 (a) of the current NIRC supplies what did not exist back in 1977...[108] (Emphasis supplied)

Thus, the Court holds that deficiency interest under Section 249(B) applies to CPPI's deficiency VAT.

Prior to the effectivity of Republic Act No. 10963[109] or the Tax Reform for Acceleration and Inclusion (TRAIN Law) on January 1, 2018, deficiency and delinquency interests were imposed simultaneously.[110] Under the TRAIN Law, as implemented under Section 5 of Revenue Regulations No. 21-2018,[111] there is a prohibition against the double imposition of interest. Thus, tax liabilities arising prior to the effectivity of the TRAIN Law and remaining unpaid thereafter shall be simultaneously imposed deficiency and delinquency interest at the rate of 20% per annum up to December 31, 2017, after which, the new regime applies.[112]

The TRAIN Law[113] also lowered the rate of deficiency and delinquency interest to "double the legal interest rate for loans or forbearance of any money in the absence of an express stipulation as set by the Bangko Sentral ng Pilipinas," i.e., at 12% per annum.[114] As implemented under Section 6 of Revenue Regulations No. 21-2018,[115] the 12% delinquency interest rate shall apply beginning January 1, 2018, of the date of effectivity of the TRAIN Law.

In sum, the Court finds that the CTA En Banc did not err in affirming the ruling of the CTA Division that CPPI is liable to pay the COC the total amount of PHP 39,373,571.93, representing deficiency customs duties, VAT, and corresponding surcharges.[116]

The Court additionally finds CPPI liable for: (1) deficiency interest on the deficiency VAT in the amount of PHP 4,842,169.59, computed at the rate of 20% per annum from the date prescribed for its payment, or from the time the BOC released the subject importations in October 2003; (2) delinquency interest on the same deficiency VAT, computed from June 9, 2008, the date of notice and demand; (3) both deficiency and delinquency interest simultaneously at the rate of 20% per annum for the period June 9, 2008 to December 31, 2017; and (4) delinquency interest only, at the rate of 12% per annum, from January 1, 2018 until full payment.

ACCORDINGLY, Colgate-Palmolive Philippines, Inc.'s Petition for Review on Certiorari is DENIED. The Decision dated January 4, 2018 and the Resolution, dated June 4, 2018 of the Court of Tax Appeals En Banc, in CTA EB Case Nos. 1471 and 1475 are AFFIRMED WITH MODIFICATION.

Colgate-Palmolive Philippines, Inc. is ORDERED to pay:

(1) Deficiency interest on the deficiency value-added tax in the amount of PHP 4,842,169.59, computed at the rate of 20% per annum from the date prescribed for its payment, or from the time the Bureau of Customs released the subject importations in October 2003, until December 31, 2017, pursuant to Section 249 (B) of the 1997 Tax Code;

(2) Delinquency interest on the same deficiency value-added tax, computed at the rate of 20% per annum from June 9, 2008 to December 31, 2017, and 12% per annum from January 1, 2018 until full payment;

The deficiency and delinquency interest imposed for the period June 9, 2008 to December 31, 2017 shall be applied simultaneously, in accordance with Sections 247(a), 249(8) and 249(C) of the 1997 National Internal Revenue Code, as well as Section 5 of Revenue Regulations No. 21-2018. From January 1, 2018 onwards, there shall be no simultaneous imposition of deficiency and delinquency interest, pursuant to Republic Act No. 10963 and its implementing regulations.

SO ORDERED.

Inting, Gaerlan, and Dimaampao, JJ., concur.

Caguioa, (Chairperson), J., see concurring opinion.

[1] Rollo, pp. 14-37.

[2] Id. at 38-62. Penned by Associate Justice Lovell R. Bautista and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Catherine T. Manahan, Ceasar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Ma. Belen M. Ringpis-Liban of the Court of Tax Appeals, En Banc, Quezon City. Presiding Justice Roman G. Del Rosario registered a Concurring Opinion, and Associate Justice Ma. Belen M. Ringpis-Liban registered a Concurring and Dissenting Opinion.

[3] Id. at 84-95. Penned by Associate Justice Lovell R. Bautista and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Catherine T. Manahan, Ceasar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Catherine T. Manahan of the Court of Tax Appeals, En Banc, Quezon City. Associate Justice Ma. Belen M. Ringpis-Liban was on leave.

[4] Id. at 98-121. Penned by Presiding Justice Roman G. Del Rosario and concurred in by Associate Justices Erlinda P. Uy and Cielito N. Mindaro-Grulla of the Court of Tax Appeals, First Division, Quezon City.

[5] Id. at 124-134. Penned by Presiding Justice Roman G. Del Rosario and concurred in by Associate Justice Erlinda P. Uy of the Court of Tax Appeals, First Division, Quezon City. Associate Justice Cielito N. Mindaro-Grulla was on leave.

[6] Id. at 61.

[7] TAX CODE, sec. 248 states:

(A) There shall be imposed, in addition to the tax required to be paid, a penalty equivalent to twenty-five percent (25%) of the amount due, in the following cases:

....

(3) Failure to pay the deficiency tax within the time prescribed for its payment in the notice of assessment;

[8] Rollo, p. 120.

[9] TAX CODE, sec. 249 states:

In case of failure to pay:

....

(3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax.

[10] Rollo, p. 121.

[11] Id. at 39-40.

[12] Id. at 40.

[13] Id.

[14] Id.

[15] Id. at 41.

[16] Id.

[17] TARIFF AND CUSTOMS CODE, sec. 201 states:

(A) Method One. – Transaction Value. – The dutiable value of an imported article subject to an ad valorem rate of duty shall be the transaction value, which shall be the price actually paid or payable for the goods when sold for export to the Philippines, adjusted by adding:

(1) The following to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods:

....

(e) The amount of royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods to the buyer;

[18] Rollo, p. 46.

[19] FCA359, June 28, 1991.

[20] October 15, 2008.

[21] Rollo, pp. 46-47.

[22] Id. at 47.

[23] Id.

[24] Id.

[25] Section 249. Interest – (C) Delinquency Interest. – In case of failure to pay:

....

(3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax.

[26] Rollo, pp. 46-47.

[27] Id. at 98-121.

[28] Id. at 42.

[29] Id. at 50.

[30] Id.

[31] Id.

[32] Id. at 51.

[33] Id.

[34] Id. at 51-52.

[35] Id. at 52.

[36] Id. at 123-124.

[37] Id. at 43.

[38] Id. at 52.

[39] Id. at 43-44.

[40] Id. at 38-62.

[41] Id. at 52.

[42] Id. at 61.

[43] Id. at 54.

[44] Id. at 58.

[45] Id. at 58-59.

[46] Id. at 59.

[47] Id. at 61.

[48] Id.

[49] Id. at 63-71.

[50] Id. at 71-83.

[51] Id. at 64.

[52] Id.

[53] Id. at 68.

[54] Id.

[55] Id. at 69.

[56] Id. at 94-95.

[57] Id. at 89.

[58] Id. at 22.

[59] Id. at 24.

[60] Id. at 28.

[61] Id. at 29.

[62] Id. at 30.

[63] Id. at 46-47.

[64] *Gatan v. Vinarao*, 820 Phil. 257, 265 (2017) [Per J. Leonardo-De Castro, First Division].

[65] *Quitoriano v. Department of Agrarian Reform Adjudication Board (DARAS)*, 571 Phil. 331, 341-342 (2008) [Per J. Chico-Nazario, Third Division].

[66] *Express Investments III Private, Ltd. v. Bayantel, Inc.*, 700 Phil. 225, 270 (2012) [Per J. Villarama, Jr., First Division].

[67] *Sps. Miano v. Manila Electric Company*, 800 Phil. 118, 122-123 (2016) [Per J. Leonen, Second Division]. "However, the general rule for petitions filed under Rule 45 admits exceptions. *Medina v. Mayor Asistio, Jr.* lists down the recognized exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record." (Citations omitted)

[68] *Pascual v. Burgos, et al.*, 776 Phil. 167, 169 (2016) [Per J. Leonen, Second Division].

[69] *Rollo*, pp. 52-54.

[70] *Chevron Philippines, Inc. v. Commissioner of the Bureau of Customs*, 593 Phil. 706, 737 (2008) [Per J. Corona, First Division].

[71] *Rollo*, p. 53.

[72] Customs Administrative Order No. 4-2004. Amendment to Customs Administrative Order 5-2001 or Implementing Republic Act 9135: An Act Amending Certain Provisions of Presidential Decree No. 1464, Otherwise Known as the Tariff and Customs Code of the Philippines, As Amended (Customs Code), And for Other Purposes, November 8, 2004.

[73] Republic Act No. 9135 (2001). An Act Amending Certain Portions of Presidential Decree No. 1464, Otherwise Known as the Tariff and Customs Code of the Philippines, as Amended, and for Other Purposes.

[74] Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

[75] *Journal*, House of Representatives, 11[th] Congress, Dec. 9, 1999, p. 606.

[76] Rollo, p. 54.

[77] SHERI ROSENOW AND BRIAN J. O'SHEA, A HANDBOOK ON THE WTO CUSTOMS VALUATION AGREEMENT 55 (2010).

[78] Rollo, p. 55.

[79] Id. at 57.

[80] Id. at 56.

[81] Id.

[82] SHERI ROSENOW AND BRIAN J. O'SHEA, A HANDBOOK ON THE WTO CUSTOMS VALUATION AGREEMENT 57 (2010).

[83] Rollo, p. 56.

[84] Id. at 58.

[85] Id.

[86] Id.

[87] Id. at 59.

[88] Id.

[89] Id. at 61.

[90] Id.

[91] Id.

[92] Revenue Regulations No. 16-2005. Consolidated Value-Added Tax Regulations of 2005.

[93] Commissioner of Customs v. Superior Gas and Equipment Co., 108 Phil. 225, 227-228 (1960) [Per J. Bengzon].

[94] Mindanao Terminal and Brokerage Service, Inc. v. Phoenix Assurance Co. of New York/MCGEE & Co., Inc., 605 Phil. 507, 518 (2009) [Per J. Tinga, Second Division].

[95] Rollo, p. 49.

[96] AFP General Insurance Corporation v. Commissioner of Internal Revenue, 889 Phil. 171, 201 (2020) [Per J. Inting, Third Division].

[97] Rollo, pp. 51-52.

[98] Id at 52.

[99] Id.

[100] Id. at 52-53.

[101] Id. at 63-71.

[102] SEC. 249 (B). Any deficiency in the tax due, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected from the date

prescribed for its payment until the full payment thereof, or upon issuance of a notice and demand by the Commissioner of Internal Revenue, whichever comes earlier.

[103] SEC. 247. General Provisions. (a) The additions to the tax or deficiency tax prescribed in this Chapter shall apply to all taxes, fees and charges imposed in this Code. The Amount so added to the tax shall be collected at the same time, in the same manner and as part of the tax.

[104] Rollo, p. 67.

[105] J. Caguioa, Concurring Opinion, p. 3.

[106] J. Dimaampao, Separate Concurring Opinion, pp. 2-3.

[107] Id.

[108] Id. at 2-4, citing *Paper Industries Corporation of the Philippines v. CA*, 321 Phil. 1, 29-32 (1995) [Per J. Feliciano, En Banc].

[109] Republic Act No. 10936 (2017). Tax Reform for Acceleration and Inclusion.

[110] SEC. 247. General Provisions. (a) The additions to the tax or deficiency tax prescribed in this Chapter shall apply to all taxes, fees and charges imposed in this Code. The Amount so added to the tax shall be collected at the same time, in the same manner and as part of the tax.

[111] Revenue Regulations No. 21-2018, sec. 5 states:

Upon the effectivity of the TRAIN Law, in no case shall the deficiency and delinquency interest prescribed herein be imposed simultaneously.

[112] *Aces Philippines Cellular Corporation v. CIR*, 929 Phil. 118, 170 (2022) [Per J. Inting, En Banc].

[113] Republic Act No. 10936 (2017). Tax Reform for Acceleration and Inclusion.

[114] SEC. 249. Interest. – (A) In General. – There shall be assessed and collected on any unpaid amount of tax, interest at the rate of double the legal interest for loans or forbearance of any money in the absence of an express stipulation as set by the *Banko Sentral ng Pilipinas* from date prescribed for payment until the amount is fully paid: Provided, That in no case shall the deficiency and delinquency interest prescribed under Sections (8) and (C) hereof, be imposed simultaneously.

[115] Revenue Regulations No. 21-2018, sec. 6 states:

In cases where the tax liability/ies or deficiency taxes became due before the effectivity of the TRAIN Law on January 1, 2018, and where the full payment thereof will only be accomplished after the said effectivity date, the interest rates shall be a lied as follows:

Period

Applicable Interest Type and Rate

For the period up to December 31, 2017

Deficiency and/or delinquency interest at 20%

For the period January 1, 2018 until full payment of the tax liability

Deficiency and/or delinquency interest at 20%

[116] Rollo, p. 61.

CONCURRING OPINION

CAGUIOA, J.:

I agree that petitioner Colgate-Palmolive Philippines, Inc., (CPPI) under declared: (a) the dutiable value of its imported goods by failing to include the amount of royalties it paid to its licensor, Colgate-Palmolive Company (CPC); and (b) the landed cost of its imported goods by reason of the resulting deficiency in the customs duties and the exclusion of the fees it paid for arrastre and wharfage. For these reasons, I concur with the ponencia that CPPI is liable to pay deficiency customs duties corresponding to the understated dutiable value, and deficiency value-added tax (VAT) corresponding to the understated landed cost, in the amounts of PHP 34,531,402.34[1] and PHP 4,842,169.59,[2] respectively.

However, I write this Opinion to expound on the propriety of imposing deficiency interest and delinquency interest on the deficiency VAT.

In its Decision dated January 4, 2018, the Court of Tax Appeals (CTA) En Banc affirmed in toto the January 26, 2016 Decision of the CTA Division, which did not impose deficiency interest on the assessed deficiency VAT against CPPI.[3] In his Concurring Opinion, then CTA Presiding Justice Roman G. Del Rosario (Justice Del Rosario) explained that deficiency interest under Section 249(B) of the National Internal Revenue Code of 1997 (Tax Code), as amended, may not be imposed on deficiency VAT because the provision applies only to deficiency income tax, estate tax, and donor's tax.[4] On the other hand, no similar limitation exists with respect to delinquency interest. Thus, CPPI was held liable only for delinquency interest on the deficiency VAT, computed from June 9, 2008 until full payment.[5]

I disagree with the CTA. In brief, I submit that CPPI is liable to pay both deficiency interest and delinquency interest on the deficiency VAT.

Deficiency Interest Applies to Deficiency VAT

Section 249 of the Tax Code, as amended, provides:

"SEC. 249. Interest. –

"(A) In General. – There shall be assessed and collected on any unpaid amount of tax, interest at the rate of double the legal interest rate for loans or forbearance of any money in the absence of an express stipulation as set by the Bangko Sentral ng Pilipinas from the date prescribed for payment until the amount is fully paid: Provided, That in no case shall the deficiency and the delinquency interest prescribed under Sections (B) and (C) hereof, be imposed simultaneously.

"(B) Deficiency Interest. – Any deficiency in the tax due, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof, or upon issuance of a notice and demand by the Commissioner of Internal Revenue, whichever comes earlier.["] (Emphasis supplied)

Justice Del Rosario reasoned that because the Tax Code contains express definitions of "deficiency" only in the chapters on income tax,[6] estate tax,[7] and donor's tax,[8] deficiency interest under Section 249(B) above may be imposed on these taxes only. In other words, since there is no similar definition or provision under the chapters

on VAT, other percentage tax (OPT), excise tax, and documentary stamp tax (DST), any deficiency in these taxes will not be subject to deficiency interest.

As earlier stated, the foregoing interpretation is erroneous as it unduly narrows the reach of Section 249(B), and is inconsistent with both the provisions of the Tax Code and settled rules of statutory construction.

Title X of the Tax Code, on Statutory Offenses and Penalties, specifically provides, under Section 247(A) of Chapter I (Additions to the Tax), that additions to the tax—including interest—apply to all taxes, fees, and charges imposed in the Tax Code, viz:

"SEC. 247. General Provisions. –

"(a) The additions to the tax or deficiency tax prescribed in this Chapter shall apply to all taxes, fees and charges imposed in this Code. The amount so added to the tax shall be collected at the same time, in the same manner and as part of the tax.["] (Emphasis supplied)

In *PICOP v. CA*,^[9] the Court en banc unequivocally held that Section 247 "clearly embraces failure to pay all taxes imposed in the Tax Code, without any regard to the Title of the Code where provisions imposing particular taxes are textually located."^[10]

In the same vein, Section 249(A) of the same chapter states that interest shall be assessed and collected on any unpaid amount of tax from the date prescribed for its payment until the amount is fully paid.

Read together, Sections 247 and 249 clearly evince a legislative intent that interest—whether deficiency or delinquency—applies to all types of internal revenue taxes. Stated differently, interest under the Tax Code may be imposed upon all taxes—whether income tax, estate tax, donor's tax, VAT, OPT, excise tax, or DST—that remains unpaid to the government even after the date prescribed for its payment.

It is an elementary rule in statutory construction that laws should be given their plain ordinary meaning whenever possible. Thus, where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.^[11] *Verba legis non est recedendum*—from the words of a statute there should be no departure. ^[12]

Accordingly, there is no basis to limit the application of deficiency interest only to specific types of taxes. Otherwise, the Tax Code would have expressly stated that deficiency interests shall apply only to deficiency income tax, estate tax, and donor's tax.

A perusal of prior tax laws reinforces this conclusion.

Under Commonwealth Act No. 466, the law which first codified the internal revenue laws of the Philippines, provisions on deficiency interest were indeed found only in the Title on Estate, Inheritance and Gift Taxes.^[13] Later, Presidential Decree (PD) No. 1158, which was issued in 1977, introduced provisions on assessment and payment of deficiency income tax and deficiency interest, to wit:

SEC. 51. Payment and assessment of income tax.—...

....

(c) Definition of deficiency.—As used in this Chapter, in respect of a tax imposed by this Title, the term "deficiency" means:

(1) The amount by which the tax imposed by this Title exceeds the amount shown as the tax by the taxpayer shall first be increase[d] by the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amount previously

abated, credited, returned, or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed or collected without assessment, shall first be decreased by the amounts previously abated, credited, returned, or otherwise repaid in respect of such tax.

(d) Interest on deficiency.—Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency and shall be paid upon notice and demand from the Commissioner and shall be collected as a part of the tax at the rate of fourteen per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed: Provided, That the maximum amount that may be collected as interest on deficiency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding. (Emphasis in the original)

Notably, however, Commonwealth Act No. 466 and PD No. 1158 already imposed other taxes aside from income tax, estate tax and donor's tax. Specifically, both already had provisions on excise tax, OPT, and DST. Nonetheless, these taxes did not have the same provisions on deficiency interest found in the chapters on income tax, estate tax, and donor's tax.

In 1985, however, the internal revenue code was again amended through the issuance of PD No. 1994. Under said law, Title XI of the NIRC on General Provisions was amended to include a general and all-encompassing chapter on "Additions to the Tax," expressly providing that the additions to tax—including interest—apply to all taxes, fees, and charges imposed in the code. This provision has been retained in subsequent amendments of the internal revenue laws of the Philippines, specifically under Section 247(A) of the current Tax Code.

From the foregoing, it is therefore clear that in providing an all-encompassing provision on Additions to the Tax, the intent of the law is one of expansion and consolidation, not restriction or limitation. Otherwise, PD No. 1994 would have just retained the tax-specific provisions on deficiency interest confined to the respective chapters on income tax, estate tax, and donor's tax under Commonwealth Act No. 466 and PD 1158.

Hence, my conclusion that deficiency interest may also be imposed on deficiency VAT.

Nonetheless, Justice Del Rosario submitted that Sections 247(A) and 249(A) should not be read in isolation from the specific provision of Section 249(B) which expressly states that deficiency interest shall apply only to deficiency taxes that have been specifically defined in the Tax Code. To reiterate, this conclusion was drawn from the language of Section 249(B), which states that "[a]ny deficiency in the tax due, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof."^[14]

In this regard, Justice Del Rosario also added that tax laws must be strictly construed against the government and liberally in favor of the taxpayer. Thus, absent a clear statutory mandate, deficiency interest, as an additional tax burden, cannot be presumed.^[15]

Once again, I disagree.

Preliminarily, the rule that tax laws are strictly construed against the government applies to statutes imposing a tax. However, deficiency interest is not a tax imposition but a consequence of delay in payment. While interest is treated as "part of the tax"^[16] for purposes of collection and enforceability, this does not convert it into a tax in the strict sense. As the Court explained in *Thunderbird Pilipinas Hotels and Resorts, Inc. v. Commissioner of Internal Revenue*,^[17] interest charged are not penal but compensatory in nature. They are compensation to the State for the delay in payment, or for the concomitant use of the funds by taxpayers beyond the dates they should

have paid them to the State.

Furthermore, under the principle of *noscitur a sociis*, where a particular word or phrase is ambiguous in itself or is equally susceptible of various meanings, its correct construction may be made clear and specific by considering the company of words in which it is found with or with which it is associated. Thus, a statute must be so construed as to harmonize and give effect to all its provisions whenever possible.[18]

As shown by the definitions of deficiency income tax, deficiency estate tax, and deficiency donor's tax, under the Tax Code, the definition of the term "deficiency" is identical across these taxes, to wit:

Income Tax

Estate Tax

Donor's Tax

"SEC. 56. Payment and Assessment of Income Tax for Individuals and Corporations. –

....

"As used in this Chapter, in respect of a tax imposed by this Title, the term "deficiency" means:

"(1) The amount by which the tax imposed by this Title exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amount previously abated, credited, returned or otherwise repaid in respect of such tax; or

"(2) If no amount is shown as the tax by the taxpayer upon this return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed or collected without assessment shall first be decreased by the amounts previously abated, credited, returned or otherwise repaid in respect of such tax.["] (Emphasis in the original)

"SEC. 93. Definition of Deficiency. – As used in this Chapter, the term 'deficiency' means:

"(a) The amount by which the tax imposed by this Chapter exceeds the amount shown as the tax by the executor, administrator or any of the heirs upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency and decreased by the amounts previously abated, refunded or otherwise repaid in respect of such tax; or

"(b) If no amount is shown as the tax by the executor, administrator or any of the heirs upon his return, or if no return is made by the executor, administrator, or any heir, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed or collected without assessment shall first be decreased by the amounts previously abated, refunded or otherwise repaid in respect of such tax.["] (Emphasis in the original)

"SEC. 104. Definitions. – ...

....

"The term 'deficiency' means: (a) the amount by which tax imposed by this Chapter exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amount previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded or otherwise repaid in respect of such tax, or (b) if no amount is shown as the tax

by the donor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency, but such amount previously assessed, or collected without assessment, shall first be decreased by the amount previously abated, refunded or otherwise repaid in respect of such tax.["] (Emphasis in the original)

Thus, when Section 249(B) used the phrase "[a]ny deficiency in the tax due, as the term is defined in this Code,"[19] it refers to the common definition of the term "deficiency," which are incidentally found in the chapters on income tax, estate tax, and donor's tax, viz.:

The amount by which the tax imposed by [the Title/Chapter] exceeds the amount shown as the tax by the taxpayer upon his [or her] return; but the amount so shown on the return shall be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amount previously abated, credited, returned or otherwise repaid in respect of such tax; or

... If no amount is shown as the tax by the taxpayer upon [his/her] return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed or collected without assessment shall first be decreased by the amounts previously abated, credited, returned or otherwise repaid in respect of such tax.

In other words, Section 249(B) refers to the concept of deficiency as a term of art, not to a closed list of specific taxes. Otherwise, the Tax Code, as amended, would have expressly stated that deficiency interest shall apply "to any deficiency in income, estate, or donor's tax due, as the term is defined in this Code."

To be sure, the definition of the term deficiency under the Tax Code is equally applicable to VAT, OPT, excise tax, and DST—all of which require the filing of returns.[20] Thus, in the case of VAT, OPT, excise taxes, and DST, there shall likewise be deficiency tax if the amount imposed by the law exceeds the amount declared or paid by the taxpayer, as indicated in his or her tax returns.

To rule that the definition of the term "deficiency" applies only to income tax, estate tax, and donor's tax, for the sole reason that the definitions are found only in their respective chapters, would result in incongruence, particularly since the term "deficiency tax" likewise appears in other chapters of the Tax Code.

In light of the foregoing, I respectfully submit that contrary to the position adopted by the CTA, deficiency interest may be imposed on all types of deficiency taxes.

As a final note on deficiency interest, I respectfully emphasize that deficiency interest accrues, not merely from the issuance of an assessment, but from the date prescribed for the payment of the tax due, depending on the tax involved.

Applied to this case, CPPI's deficiency VAT has therefore accrued deficiency interest from the date the VAT on importation was due i.e., the time the imported goods were released by the Bureau of Customs (BOC).

Delinquency Interest Likewise Applies to Deficiency VAT

In the same vein, for reasons already stated above, delinquency interest applies to all types of tax imposed under the Tax Code. For reference, Section 249(C)(3) of the Tax Code on delinquency interest provides:

"(C) Delinquency Interest. – In case of failure to pay:

....

"(3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax.["]

From the foregoing, it is clear that a deficiency tax, or any surcharge or interest thereon, shall incur delinquency interest after the lapse of the deadline indicated in the tax assessment issued against the taxpayer, until the amount is fully paid.

Juxtaposed with Section 249(B) on deficiency interest, a deficiency tax will only accrue delinquency interest if the following conditions are met: (1) the taxpayer is assessed with deficiency tax; and (2) the taxpayer fails to fully pay the deficiency tax within the deadline set in the assessment. Prior to the lapse of the deadline, the deficiency tax shall incur deficiency interest. Thereafter, the total of the deficiency tax and deficiency interest shall accrue delinquency interest until full payment thereof.

To illustrate, suppose that Taxpayer A paid PHP 100,000.00 in income tax on its statutory deadline of April 15, 2025. Following an audit, it was determined that Taxpayer A had understated its income, resulting in a deficiency income tax of PHP 10,000.00 for the taxable year 2024.

On October 1, 2025, the CIR formally assessed Taxpayer A for deficiency income tax and required payment thereof on or before October 15, 2025. Taxpayer A, however, failed to pay the assessed deficiency and ultimately settled its liability only on December 15, 2025.

In this scenario, the deficiency income tax of PHP 10,000.00 accrues deficiency interest at the rate of 12% per annum from April 15, 2025—the date prescribed by law for payment of the income tax—up to October 15, 2025, the deadline stated in the notice of assessment and demand. For this six-month period, the deficiency interest amounts to PHP 600.00.

Upon the lapse of the deadline to pay the assessed deficiency tax on October 15, 2025, the unpaid amount consisting of the deficiency tax and the accrued deficiency interest, or PHP 10,600.00, thereafter accrues delinquency interest at the rate of 12% per annum from October 15, 2025 to December 15, 2025, amounting to PHP 212.00.

In total, as of December 15, 2025, Taxpayer A is liable to pay the amount of PHP 10,812.00, representing the deficiency income tax and the corresponding deficiency and delinquency interest.

It is worth mentioning, however, that the foregoing discussion and illustration operationalize the current version of the Tax Code, which specifically mandates that, in no case shall the deficiency and delinquency interest be imposed simultaneously. Prior to the effectivity of Republic Act No. 10963 or the TRAIN Law on January 1, 2018, however, deficiency and delinquency interests are imposed simultaneously. Thus, the Court in *Aces Philippines Cellular Satellite Corporation v. The Commissioner of Internal Revenue*,^[21] expressly stated that "deficiency and delinquency interests under the 1997 Tax Code shall be imposed simultaneously but only until December 31, 2017."^[22]

As Applied to CPPI

Applying the foregoing principles and interpretation to the instant case, CPPI is liable to pay:

(a) deficiency interest on the deficiency VAT from the date prescribed for its payment (i.e., the time the BOC released the relevant importations of CPPI in October 2003) until the deadline indicated in the notice of assessment and demand issued by the BOC, or until December 31, 2017, whichever is later; and

(b) delinquency interest on the unpaid deficiency VAT and accrued deficiency interest from the lapse of the deadline until full payment, viz.:

(image supposed to be here)

In light of the foregoing, I register my concurrence to the ponencia.

[1] Ponencia, p. 15.

[2] Id. at 20.

[3] Id. at 4-5.

[4] Id. at 8.

[5] Id. at 20.

[6] "SEC. 56. Payment and Assessment of Income Tax for Individuals and Corporations. –

....

"(B) Assessment and Payment of Deficiency Tax. – After the return is filed, the Commissioner shall examine it and assess the correct amount of the tax. The tax or deficiency income tax so discovered shall be paid upon notice and demand from the Commissioner.

"As used in this Chapter, in respect of a tax imposed by this Title, the term 'deficiency' means:

"(1) The amount by which the tax imposed by this Title exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amount previously abated, credited, returned or otherwise repaid in respect of such tax; or

"(2) If no amount is shown as the tax by the taxpayer upon this return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed or collected without assessment shall first be decreased by the amounts previously abated, credited, returned or otherwise repaid in respect of such tax.["] (Emphasis in the original)

[7] "SEC. 93. Definition of Deficiency. – As used in this Chapter, the term 'deficiency' means:

"(a) The amount by which the tax imposed by this Chapter exceeds the amount shown as the tax by the executor, administrator or any of the heirs upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency and decreased by the amounts previously abated, refunded or otherwise repaid in respect of such tax; or

"(b) If no amount is shown as the tax by the executor, administrator or any of the heirs upon his return, or if no return is made by the executor, administrator, or any heir, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed or collected without assessment shall first be decreased by the amounts previously abated, refunded or otherwise repaid in respect of such tax.["] (Emphasis in the original)

[8] Republic Act No. 8424 (1997), sec. 104 define the term 'deficiency' as:

(a) the amount by which tax imposed by this Chapter exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amount previously assessed (or

collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded or otherwise repaid in respect of such tax, or (b) if no amount is shown as the tax by the donor, then the amount by which the tax exceeds the amounts previously assessed, (or collected without assessment) as a deficiency, but such amounts previously assessed, or collected without assessment, shall first be decreased by the amount previously abated, refunded or otherwise repaid in respect of such tax.

[9] 321 Phil. 1 (1995) [Per J. Feliciano, En Banc].

[10] Id. at 30-31. (Emphasis in the original)

[11] Chavez v. Judicial and Bar Council, 691 Phil. 173, 199 (2012) [Per J. Mendoza, En Banc].

[12] Id. at 199-200.

[13] TITLE III

Estate, Inheritance and Gift Taxes

CHAPTER I

Estate and Inheritance Tax

....

SECTION 98. Definition of deficiency. — ...

....

SECTION 100. Interest on deficiency. — Interest upon the amount determined as a deficiency shall be assessed at the same time as deficiency, shall be paid upon notice and demand from the Collector of Internal Revenue, and shall be collected as a part of the tax, at the rate of six per centum per annum from the due date of the tax to the date the deficiency is assessed.

....

CHAPTER II

Gift Tax

....

SECTION 119. Additions to the Tax in Case of Non-payment. —

(a) Tax shown on the return.

(1) Payment not extended. — Where the amount of the taxes determined by the donor or the donee as the taxes or any part of such amount is not paid on the due date of the taxes, there shall be collected as a part of the taxes, interest upon such unpaid amount at the rate of one per centum a month from the due date until is paid. (Emphasis supplied)

[14] Republic Act No. 10963 (2017), sec. 249(B). (Emphasis supplied)

[15] Ponencia, p. 8.

[16] Thunderbird Pilipinas Hotels and Resorts, Inc. v. Commissioner of Internal Revenue, 890 Phil. 30, 71 (2020) [Per J. Leonen, Third Division].

[17] Id.

[18] Peralta v. Philippine Postal Corporation, 844 Phil. 603, 638 (2018) [Per J. Tijam, En Banc].

[19] Republic Act No. 10963 (2017), sec. 249(B).

[20] "SEC. 114. Return and Payment of Value-Added Tax. –

"(A) In General. – Every person liable to pay the value-added tax imposed under this Title shall file, either electronically or manually, a quarterly return of the amount of his gross sales within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer[.] ...

....

"SEC. 128. Returns and Payment of Percentage Taxes. –

"(A) Returns of Gross Sales or Earnings and Payment of Tax. –

"(1) Persons Liable to Pay Percentage Taxes. – Every person subject to the percentage taxes imposed under this Title shall file, either electronically or manually, a quarterly return of the amount of the person's gross sales or earnings and pay, either electronically or manually, to any authorized agent bank, Revenue District Office through Revenue Collection Officer or authorized tax software provider, the tax due thereon within twenty-five (25) days after the end of each taxable quarter[.] ...

....

"SEC. 200. Payment of Documentary Stamp Tax. –

"(A) In General. – The provisions of Presidential Decree No. 1045 notwithstanding, any person liable to pay documentary stamp tax upon any document subject to tax under Title VII of this Code shall file a tax return, either electronically or manually, and pay, either electronically or manually, the tax in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner.["]

[21] 929 Phil. 118 (2022) [Per J. Inting, En Banc].

[22] *Id.* at 152.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.