



Insurance Corporation (Philhealth) assailing the Commission on Audit (COA) Commission Proper (COA Proper) Decision<sup>2</sup> dated January 29, 2018 and Resolution<sup>3</sup> dated August 15, 2019 in COA CP Case No. 2015-683. In the assailed issuances, the COA Proper affirmed the Notices of Disallowance (NDs) issued by the COA Auditor relative to Philhealth's payment of Educational Assistance Allowance (EAA) and Birthday Gift to its officials and employees in the Head Office (HO) and Regional Offices (RO) during 2014.<sup>4</sup>

### *The Antecedents*

The present controversy stems from the COA Auditor's issuance of two NDs<sup>5</sup> disallowing benefits and allowances paid by Philhealth to HO/RO officials in the aggregate amount of ₱83,062,385.27 computed<sup>6</sup> as follows:

<b>Benefit/Allowance</b>	<b>Amount</b>
EAA – HO	₱51,529,824.29
EAA – NCR and Rizal RO	27,837,560.98
Birthday Gift	3,695,000.00
<b>Total</b>	<b>₱83,062,385.27<sup>7</sup></b>

The COA Auditor found that Philhealth granted the EAA and Birthday Gift to its officials without the President's approval, contrary to the requirement set forth under the following legal provisions:<sup>8</sup>

#### 1) Presidential Decree No. (PD) 1597<sup>9</sup>

SECTION 5. Allowances, Honoraria, and Other Fringe Benefits. — Allowances, honoraria and other fringe benefits which may be granted to government employees, whether payable by their respective offices or by other agencies of government, *shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget.* For this purpose, the Budget

<sup>2</sup> Id. at 42-51. Approved by COA Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Isabel D. Agito.

<sup>3</sup> Id. at 62.

<sup>4</sup> Id. at 42.

<sup>5</sup> ND Nos. HO 2015-001-COB (14) dated January 21, 2015 and NCR 2015-003 COB (14) dated April 29, 2015.

<sup>6</sup> *Rollo*, p. 42.

<sup>7</sup> Id.

<sup>8</sup> Id. at 43.

<sup>9</sup> Entitled "Further Rationalizing the System of Compensation and Position Classification in the National Government," approved on June 11, 1978.

Commission shall review on a continuing basis and shall prepare, for the consideration and approval of the President, policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation.

SECTION 6. Exemptions from OCPC Rules and Regulations. — Agencies positions, or groups of officials and employees of the national government, including government owned or controlled corporations, who are hereafter exempted by law from OCPC coverage, *shall observe such guidelines and policies as may be issued by the President governing position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits. Exemptions notwithstanding, agencies shall report to the President, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.* (Italics supplied)

2) Republic Act No. (RA) 6758,<sup>10</sup> otherwise known as the Salary Standardization Law (SSL)

SECTION 12. Consolidation of Allowances and Compensation. — All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; *and such other additional compensation not otherwise specified herein as may be determined by the DBM*, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government. (Italics supplied)

3) Memorandum Order No. (MO) 20<sup>11</sup> dated June 25, 2001

SECTION 3. Any increase in salary or compensation of

<sup>10</sup> "Compensation and Position Classification Act of 1989," approved on August 21, 1989.

<sup>11</sup> Directing Heads of Government-Owned-and-Controlled Corporations (GOCCs), Government Financial Institutions (GFIs) and Subsidiaries Exempted from or Not Following the Salary Standardization Law (SSL) to Implementation of Pay Rationalization Plan in All Senior Officer Positions, signed on June 25, 2001.

[government-owned or -controlled corporations (GOCCs)/ government financial institutions (GFIs)] that are not in accordance with the SSL shall be subject to the approval of the President.

4) Administrative Order No. (AO) 103<sup>12</sup> dated August 31, 2004

SECTION 3. All NGAs, SUCs, GOCCs, GFIs and OGCEs, whether exempt from the Salary Standardization Law or not, are hereby directed to:

x x x x

(b) Suspend the grant of new or additional benefits to full-time officials and employees and officials, except for (i) Collective Negotiation Agreement (CNA) Incentives which are agreed to be given in strict compliance with the provisions of the Public Sector Labor-Management Council Resolutions No. 04, s. 2002 and No. 2, s. 2003, and (ii) *those expressly provided by presidential issuance* x x x. (Italics supplied)

5) Executive Order No. (EO) 7<sup>13</sup> dated September 8, 2010

SECTION 9. Moratorium on Increases in Salaries, Allowances, Incentives and Other Benefits. — Moratorium on increases in the rates of salaries, and the grant of new increases in the rates of allowances, incentives and other benefits, except salary adjustments pursuant to Executive Order No. 811 n dated June 17, 2009 and Executive Order No. 900 dated June 23, 2010, are hereby imposed *until specifically authorized by the President*. (Italics supplied)

6) RA 10149,<sup>14</sup> otherwise known as the GOCC Governance Act of 2011

SECTION 8. Coverage of the Compensation and Position Classification System. — The GCG, after conducting a compensation study, shall develop a Compensation and Position Classification System which shall apply to all officers and employees of the GOCCs whether under the Salary Standardization Law or exempt therefrom and shall consist of classes of positions grouped into such categories as the GCG may determine, *subject to the approval of the President*. (Italics supplied)

<sup>12</sup> Directing the Continued Adoption of Austerity Measures in the Government, signed on August 31, 2004.

<sup>13</sup> Entitled "Directing the Rationalization of the Compensation and Position Classification System in the GOCCs and GFIs," signed on September 8, 2010.

<sup>14</sup> Entitled "An Act to Promote Financial Viability and Fiscal Discipline in Government-Owned or -Controlled Corporations and to Strengthen the Role of the State in its Governance and Management to Make them More Responsive to the Needs of Public Interest and For Other Purposes," approved on June 6, 2011.

When the COA Director denied its subsequent appeal from the disallowances, Philhealth<sup>15</sup> elevated the case to the COA Proper.<sup>16</sup>

*Ruling of the COA Proper*

In its assailed Decision,<sup>17</sup> the COA Proper affirmed the disallowances. It explained as follows:

*First*, based on *Engr. Mendoza v. Commission on Audit*,<sup>18</sup> it is true that selected entities have been exempted from the application of the SSL by virtue of their charters. These exempted entities were allowed to create their own compensation and position classification systems that apply to their respective offices. However, the charter<sup>19</sup> of Philhealth (Philhealth Charter) does not contain the same express exemption.<sup>20</sup>

*Second*, Philhealth's power to fix the compensation of its personnel, as provided under Section 16(n)<sup>21</sup> of the Philhealth Charter, does not expressly grant fiscal autonomy upon the entity. Further, based on *Intia, Jr. v. Commission on Audit*,<sup>22</sup> the Board of Directors' authority to determine and fix Philhealth personnel's compensation and classification is not absolute. Section 26(a)<sup>23</sup> of the Philhealth Charter mandates that all funds under Philhealth's management and control shall be subject to all rules and regulations applicable to public funds.<sup>24</sup>

<sup>15</sup> Through Ramon F. Ariztoza, Jr., Officer-in-Charge President and Chief Executive Officer.

<sup>16</sup> *Rollo*, p. 43. Philhealth did not attach a copy of the COA Corporate Government Section-Cluster 6 (COA Director) Decision dated September 10, 2015.

<sup>17</sup> *Id.* at 42-51.

<sup>18</sup> 717 Phil. 491 (2013).

<sup>19</sup> Republic Act No. 7875, otherwise known as the "National Health Insurance Act of 1995," as amended, approved on February 14, 1995.

<sup>20</sup> *Rollo*, p. 45.

<sup>21</sup> SECTION 16. *Powers and Functions*.— The Corporation shall have the following powers and functions:

x x x x

n) to organize its office, fix the compensation of and appoint personnel as may be deemed necessary and upon the recommendation of the president of the Corporation;

x x x x

<sup>22</sup> 366 Phil. 273 (1999).

<sup>23</sup> SECTION 26. *Financial Management*.— The use, disposition, investment, disbursement, administration and management of the National Health Insurance Fund, including any subsidy, grant or donation received for program operations shall be governed by resolution of the Board of Directors of the Corporation, subject to the following limitations:

a) All funds under the management and control of the Corporation shall be subject to all rules and regulations applicable to public funds.

x x x x

<sup>24</sup> *Rollo*, p. 45.

*Third*, even if Philhealth were expressly allowed by its charter to have its own position and compensation plans, it would still be required to report the same to the President of the Philippines through the Department of Budget and Management (DBM).<sup>25</sup>

*Fourth*, contrary to Philhealth's assertion, the subject benefits and allowances are not Collective Negotiation Agreement (CNA) incentives. Public Sector Labor-Management Council (PSLMC) Resolution No. 04, s. 2002 and Resolution No. 02, s. 2003 defined CNA Incentives as rationalized cash incentives granted under a CNA in favor of government employees who have contributed either in productivity or cost savings in an agency. The subject EAA and Birthday Gift do not fall within this definition and, thus, are regarded as non-negotiable concerns, the payment of which is regulated by law.<sup>26</sup>

*Fifth*, the granting of benefits and allowances by virtue of the resolutions passed by Philhealth in the exercise of its fiscal autonomy, no matter how long practiced, if done in violation of existing rules and regulations, is still considered unauthorized and should be disallowed.<sup>27</sup>

*Sixth*, the claim that former President Gloria Macapagal-Arroyo (President Arroyo) twice confirmed the power of the Board of Directors to fix Philhealth's compensation framework, as provided under Section 16(n) of its Charter, is untenable. The former President only approved the Philhealth Rationalization Plan or Reengineered Organization and its corresponding plantilla positions.<sup>28</sup>

Finally, the COA Proper found that all approving/certifying officers and recipients of the subject benefits and allowances are liable for the disallowed amounts. On the one hand, the approving/certifying officers cannot be deemed in good faith, inasmuch as the rules and regulations requiring the prior approval of the Office of the President and the DBM were already existing prior to the grant and payment of the subject benefits and allowances. In fact, several audit disallowances have been previously issued against Philhealth which should have made it more conscious and mindful in paying out employee benefits and

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<sup>25</sup> Id. at 46.

<sup>26</sup> Id. at 47, citing the Civil Service Commission Primer on Collective Negotiation Agreement.

<sup>27</sup> Id. at 48.

<sup>28</sup> Id.

allowances.<sup>29</sup> Thus, they are solidarily liable for the disallowed amounts.<sup>30</sup> On the other hand, the payees must return what they have received to prevent unjust enrichment against the government.<sup>31</sup>

The COA Proper's denial<sup>32</sup> of the subsequent Motion for Reconsideration<sup>33</sup> prompted Philhealth to file the present petition.

### *Philhealth's Arguments*

Philhealth cites the following grounds for the allowance of its petition:

A. SECTION 16(n) OF R.A. NO. 7875, AS AMENDED, EXPLICITLY BESTOWED [PHILHEALTH] WITH "FISCAL AUTONOMY OR INDEPENDENCE" TO FIX THE COMPENSATION OF ITS PERSONNEL, AS CONFIRMED BY [THE OFFICE OF THE GOVERNMENT CORPORATE GENERAL COUNSEL (OGCC)] OPINIONS, THEN PRESIDENT GLORIA ARROYO, AND LEGISLATIVE DELIBERATIONS ON SECTION 16(n).

B. THE FISCAL AUTHORITY OF [PHILHEALTH] UNDER ARTICLE IV, SECTION 16 (N) OF R.A. NO. 7875, AS AMENDED, HAD BEEN CONFIRMED TWICE BY THEN PRESIDENT GLORIA M. ARROYO, IN 2006 AND IN 2008.

C. [PHILHEALTH] IS CLASSIFIED AS A [GFI] AND MUST BE ACCORDED THE FISCAL AUTONOMY ENJOYED BY OTHER GFIs AS RECOGNIZED BY THIS COURT IN THE CASE OF *CENTRAL BANK EMPLOYEES ASSOCIATION INC. vs. BANGKO SENTRAL NG PILIPINAS*.

D. THE DISALLOWED BENEFITS WERE GRANTED PURSUANT TO THE DULY EXECUTED [CNA] BETWEEN [PHILHEALTH] MANAGEMENT AND [PHILHEALTH] EMPLOYEES ASSOCIATION (PHICEA)

E. THE [PHILHEALTH] OFFICIALS AND EMPLOYEES RECEIVED THE SUBJECT BENEFITS IN GOOD FAITH AND, THEREFORE, EVEN IF THE DISALLOWANCE IS SUSTAINED, THEY CANNOT BE REQUIRED TO REFUND THE SAME.

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<sup>29</sup> Id.

<sup>30</sup> Id. at 49.

<sup>31</sup> Id.

<sup>32</sup> Id. at 62.

<sup>33</sup> Id. at 64-96.

F. THE SUPREME COURT HAS ALREADY RULED IN THE CASE OF *PHILHEALTH CARAGA VS. COMMISSION ON AUDIT [DECISION]*, G.R. No. 230218, AUGUST 14, 2018, THAT BOTH THE APPROVING OFFICERS AND PASSIVE RECIPIENTS ARE IN GOOD FAITH IN RECEIVING BENEFITS APPROVED BY THE PHILHEALTH BOARD, HENCE, BOTH NEED NOT REFUND THE DISALLOWED BENEFITS.<sup>34</sup>

Philhealth relies heavily on its supposed fiscal autonomy and the Board of Directors' authority to fix the compensation of Philhealth personnel to justify the grant and payment of EAA and Birthday Gift. It points out that its fiscal autonomy has been twice confirmed by former President Arroyo and supported by OGCC Opinions. It classifies itself as part of a "distinct class" of entities (*i.e.*, GOCCs/GFIs) that are allowed fiscal autonomy and, thus, exempted from the application of the SSL.

Further, Philhealth insists that the subject benefits and allowances were incentives paid pursuant to a duly-executed CNA between the management and its personnel.

As to liability, Philhealth invokes the defense of good faith to excuse the approving officers and payees alike from their obligation in relation to the disallowances.

#### *COA's Arguments*

The COA, through the Office of the Solicitor General, counters that Philhealth failed to establish grave abuse of discretion on the part of the COA Proper. Unless the assailed COA Proper rulings are ridden with grave abuse of discretion, its inconsequential errors of judgment cannot be reviewed by the Court.<sup>35</sup>

In any case, it refutes Philhealth's claims as follows: *First*, Philhealth's power to fix the compensation of its personnel is not unfettered. It is not exempted from the limitations and guidelines provided for by the SSL and other pertinent rules and regulations.<sup>36</sup> Further, the Court already held<sup>37</sup> that without an express exemption in the Philhealth Charter, the GOCC shall comply with the SSL's

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<sup>34</sup> Id. at 7-8.

<sup>35</sup> Id. at 156-157.

<sup>36</sup> Id. at 158.

<sup>37</sup> Citing *Engr. Mendoza v. Commission on Audit*, supra note 18.



provisions, as well as other rules and regulations.<sup>38</sup> *Second*, the subject benefits are non-negotiable concerns that are excluded in CNAs pursuant to PSLMC Resolution No. 04, s. 2002 and Resolution No. 02, s. 2003, *supra*, and DBM Budget Circular No. 2006-1 dated February 1, 2006.<sup>39</sup> *Third*, at the time the benefits were granted, there were already existing rules and regulations requiring prior executive approval. Thus, the Philhealth approving officials cannot be regarded as [having acted] in good faith in granting the subject benefits.<sup>40</sup> On the other hand, good faith also does not absolve the payees to refund the benefits erroneously taken.<sup>41</sup>

### *Issue*

Did the COA Proper commit grave abuse of discretion in affirming the disallowances against Philhealth?

### *The Court's Ruling*

The petition lacks merit.

At the onset, it must be stressed that the Court's authority to review COA rulings *via* Rule 64 is limited to acts that amount to jurisdictional errors or grave abuse of discretion.<sup>42</sup> The Court's intervention is justified only when it is clearly shown that the COA acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.<sup>43</sup> Simple errors of judgment on the part of the COA Proper cannot be cured *via certiorari* proceedings<sup>44</sup> or reviewed by the Court *via* Rule 64.<sup>45</sup> Consequently, Philhealth bears the burden of proving "not merely reversible error" committed by the COA Proper, but "such a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction."<sup>46</sup>

In the present action, Philhealth invokes repeatedly the concepts of

<sup>38</sup> *Rollo*, p. 160.

<sup>39</sup> *Id.* at 162.

<sup>40</sup> *Id.* at 163.

<sup>41</sup> Citing *Rotoras v. Commission on Audit*, G.R. No. 211999, August 20, 2019.

<sup>42</sup> Section 2, Rule 64, in relation to Section 1, Rule 65 of the Rules of Court.

<sup>43</sup> *Social Security System v. Commission on Audit*, G.R. No. 231391, June 22, 2021.

<sup>44</sup> *Zamboanga City Water District v. Commission on Audit*, G.R. No. 218374, December 1, 2020.

<sup>45</sup> *Ramiscal v. Commission on Audit*, 819 Phil. 597 (2017).

<sup>46</sup> *Zamboanga City Water District v. Commission on Audit*, *supra* note 44, citing *Fernandez v. Commission on Audit*, G.R. No. 205389, November 19, 2019.

fiscal autonomy, institutional authority to fix personnel compensation, and good faith in its attempt to have the COA rulings overturned. For one, the contentions are a reiteration of those raised before and passed upon by the COA Proper.<sup>47</sup> More importantly, it is obvious that the arguments are not imputations of grave abuse. Assuming that these are proven, the imputations only amount to errors of judgment, which are beyond the scope of the Court's review under Rule 64.<sup>48</sup> To be clear, Philhealth's failure to point out the specific acts of the COA Proper that may constitute grave abuse of discretion in upholding the subject disallowances<sup>49</sup> is sufficient ground to dismiss the present petition.<sup>50</sup>

Be that as it may, even if the Court brushes aside the deficiency in Philhealth's allegations, there is no reason to depart from the COA's rulings.

## I

To recall, the subject disallowances were grounded on the lack of executive approval, as required under the following laws:

- 1) Sections 5 and 6 of PD 1597;
- 2) Section 12 of the SSL;
- 3) Section 3 of MO 20 dated June 25, 2001;
- 4) Section 3 of AO 103 dated August 31, 2004;
- 5) Section 9 of EO 7 dated September 8, 2010; and
- 6) Section 8 of the GOCC Governance Act.

The Court observes that Philhealth does not deny that the subject benefits and allowances were granted without executive approval or confirmation. Instead, Philhealth insists that it belongs to a special class of entities exempted from the requirements in the SSL and relevant laws/regulations,<sup>51</sup> particularly obtaining prior executive approval in relation to the grant and payment of salaries and benefits. It continues to rely on its supposed fiscal autonomy and authority to fix the compensation of its personnel in justifying the grant and in seeking exemption from the application of the SSL. In other words, Philhealth believes that it has a free hand in determining the compensation of its personnel, without the intervention of the executive, and that the

<sup>47</sup> *Social Security System v. Commission on Audit*, supra note 43.

<sup>48</sup> *National Tobacco Administration v. Commission on Audit*, G.R. No. 217915, October 12, 2021.

<sup>49</sup> See *Philippine Health Insurance Corporation v. COA*, 837 Phil. 90 (2018).

<sup>50</sup> *Social Security System v. Commission on Audit*, supra note 43.

<sup>51</sup> *Rollo*, pp. 16-18.

resolutions passed by the Board of Directors are sufficient legal bases for the grant and payment of the EAA and Birthday Gift.

However, it is already settled that *Philhealth does not have absolute discretion in determining the compensation of its officials*. In the 2016 Decision in *Philippine Health Insurance Corp. v. Commission on Audit*,<sup>52</sup> the Court explained at length:

Accordingly, that Section 16(n) of R.A. 7875 granting PHIC's power to fix the compensation of its personnel does not explicitly provide that the same shall be subject to the approval of the DBM or the OP as in Section 19(d) thereof does not necessarily mean that the PHIC has unbridled discretion to issue any and all kinds of allowances, limited only by the provisions of its charter. As clearly expressed in *PCSO v. COA*, even if it is assumed that there is an explicit provision exempting a GOCC from the rules of the then Office of Compensation and Position Classification (OCPC) under the DBM, the power of its Board to fix the salaries and determine the reasonable allowances, bonuses and other incentives was still subject to the standards laid down by applicable laws: P.D. No. 985, its 1978 amendment, P.D. No. 1597, the SSL, and at present, R.A. 10149. To sustain petitioners' claim that it is the PHIC, and PHIC alone, that will ensure that its compensation system conforms with applicable law will result in an invalid delegation of legislative power, granting the PHIC unlimited authority to unilaterally fix its compensation structure. Certainly, such effect could not have been the intent of the legislature.<sup>53</sup> (Citations omitted)

The Court reiterated its rejection of Philhealth's fiscal autonomy as justification for the payment of allowances and benefits in the following disallowance cases also involving Philhealth:

- (a) *Philippine Health Insurance Corp. v. Commission on Audit*, G.R. No. 235832, November 3, 2020;
- (b) *Philippine Health Insurance Corp. v. Commission on Audit*, G.R. No. 222129, February 2, 2021;
- (c) *Philippine Health Insurance Corp. Regional Office-CARAGA v. Commission on Audit (Resolution)*, G.R. No. 230218, July 6, 2021; and

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<sup>52</sup> 801 Phil. 427 (2016).

<sup>53</sup> Id. at 452-453.

(d) *Philippine Health Insurance Corp. v. Commission on Audit*, G.R. No. 250089, November 9, 2021.

That Philhealth's fiscal autonomy had been purportedly confirmed by the Chief Executive and the OGCC, as Philhealth argues,<sup>54</sup> cannot undermine the consistent and unequivocal Court pronouncements.

At this point, there should no longer be any question that Philhealth is not exempted from the application of the SSL. Its power to fix personnel compensation is limited and "must necessarily yield to the state policy of 'equal pay for equal work.' Thus, any disbursement of allowances and other forms of employee compensation must conform with prevailing rules and regulations issued by the President of the Philippines and/or the [DBM]."<sup>55</sup>

To be sure, the resolutions of the Board of Directors granting the EAA and Birthday Gift sans executive/DBM review and approval as required under PD No. 985, as amended, PD No. 1597, the SSL, and RA No. 10149 are *ultra vires* acts,<sup>56</sup> which rendered the subsequent disbursements illegal and irregular.<sup>57</sup> These infractions are substantial. In view of these, there is no more need to elaborate on the same approval requirement reiterated in MO No. 20 and AO No. 103.

## II

The general principle of the SSL is that the basic salary of civil service personnel is deemed to already include all allowances and other forms of additional compensation. By exception, under Section 12 thereof, *supra*, the following may be paid on top of the standardized basic salary:

- (1) representation and transportation allowances, clothing and laundry allowances, subsistence allowance of marine officers and crew on board government vessels and hospital personnel, hazard pay, allowances of foreign service personnel stationed abroad;

<sup>54</sup> *Rollo*, pp. 24-25.

<sup>55</sup> *Philippine Health Insurance Corp. v. Commission on Audit*, G.R. No. 222129, February 2, 2021.

<sup>56</sup> See *Metropolitan Waterworks and Sewerage System v. Commission on Audit*, 821 Phil. 117 (2017).

<sup>57</sup> *Zamboanga City Water District v. Commission on Audit*, *supra* note 44.

- (2) other additional compensation not otherwise specified herein as may be determined by the DBM as non-integrated;<sup>58</sup>
- (3) other additional compensation of a government employee, whether or not integrated, if the employee had been already receiving such additional compensation prior to the SSL's effectivity (*i.e.*, before and as of July 1, 1989).

In the present controversy: *first*, the subject EAA and Birthday Gift are not among the allowable non-integrated allowances expressly enumerated under Section 12; *second*, Philhealth does not point to any DBM issuance identifying the EAA and Birthday Gift as allowable non-integrated benefits; *third*, it admits that the grant of EAA commenced in 2000.<sup>59</sup> On the other hand, it claims that the grant of Birthday Gift was made pursuant to the CNA executed and approved in 2010.<sup>60</sup> In other words, the subject benefits were introduced to Philhealth's compensation scheme long after the passage of the SSL.

It is clear from the foregoing that the EAA and Birthday Gift are not among the exceptions to the standardization of salaries. These are deemed already incorporated in the basic salary of Philhealth personnel. Consequently, "*the unauthorized issuance and receipt of [these benefits are] tantamount to double compensation justifying COA disallowance.*"<sup>61</sup>

### III

The Court also rejects Philhealth's theory that the subject benefits are valid CNA Incentives. For its part, Philhealth claims that PSLMC Resolution No. 02, s. 2003 allows "higher incentives to employees" of GOCCs/GFIs.<sup>62</sup> The Court finds Philhealth's interpretation of the issuance highly selective.

PSLMC Resolution No. 02, s. 2003<sup>63</sup> expressly states:

<sup>58</sup> *Philippine Health Insurance Corp. v. Commission on Audit*, supra note 52, at 454.

<sup>59</sup> *Rollo*, p. 12.

<sup>60</sup> *Id.* at 11-12.

<sup>61</sup> *Philippine Health Insurance Corp. v. Commission on Audit*, supra note 52, at 455.

<sup>62</sup> *Rollo*, p. 26.

<sup>63</sup> Entitled "Grant of Collective Negotiation Agreement (CNA) Incentive for Government Owned or Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs)," adopted and approved on May 19, 2003.

Wherefore, the Council resolves as it hereby resolved, to adopt the following guidelines for all GOCCs/GFIs whether covered by or exempted from the SSL;

Section 1. In recognition of the joint efforts of labor and management *to attain more efficient and viable operations*, a CNA Incentive may be provided in the CNA to be granted to the rank-and-file.

Section 2. The CNA must include, among others, provisions on improvement of income and productivity, streamlining of systems and procedures, and cost cutting measures that shall be undertaken by both the management and the union so that the operations of the GOCC/GFI can be undertaken at a lesser cost.

Section 3. The CNA Incentive may be granted *if all the following conditions are met by the GOCC/GFI*:

- a) Actual operating income at least meets the targeted operating income in the Corporate Operating Budget (COB) approved by the [DBM]/Office of the President for the year; For GOCCs/GFIs, which by nature of their functions consistently incur operating losses, the current year's operating loss should have been minimized or reduced compared to or at most equal that of prior year's level;
- b) Actual operating expenses are less than the DBM approved level of operating expenses in the COB as to generate sufficient source of funds for the payment of CNA Incentive; and
- c) For income generating GOCCs/GFIs, dividends amounting to at least 50% of their annual earnings have been remitted to the National Treasury in accordance with the provisions of [RA] 7656 dated November 9, 1993. (Italics supplied)

The import of the above-cited provisions is that GOCCs/GFIs do not have the authority to grant CNA Incentives at will. A valid and justified grant turns upon the concurrence of several conditions, thus: *that there is a valid CNA between labor and management and that the parties have endeavored to attain more efficient and viable operations.* "Whether the parties have in fact achieved these objectives shall be determined by the criteria and benchmark *expressly stipulated* by the parties in the CNA, particularly the provisions on the improvement of income and productivity, streamlining of systems and procedures, and

cost-cutting measures to be undertaken.”<sup>64</sup>

Foremost, it is basic that CNA incentives are granted specifically to reward good performance and efficiency. However, there appears to be no connection between the grant of the EAA and Birthday Gift and Philhealth’s institutional productivity/performance.

Furthermore, there is nothing in the *rollo* that establishes whether the essential requisites for a valid CNA Incentive have been met. In particular, Philhealth failed to show whether its management and the relevant collective negotiation unit agreed on specific cost-cutting measures or any plan to improve its operations’ efficiency and viability identified therein. When it is uncertain “whether cost-cutting measures were installed and/or implemented or, much more, whether [the GOCC/GFI] actually reduced its costs and generated the savings required to establish a funding source for its CNA Incentives,”<sup>65</sup> the grant of CNA Incentives is unjustified.

#### IV

Philhealth’s payments of EAA and Birthday Gift were also scrutinized in the recent case of *Philippine Health Insurance Corp. Regional Office-CARAGA v. Commission on Audit (Resolution)*.<sup>66</sup> The Court categorically declared that the disbursements of various Philhealth benefits, including the EAA and Birthday Gift lacked legal basis, *viz*:

Specifically, the birthday gifts, educational assistance allowance, contractor’s gifts and sustenance allowance, transportation allowance, and shuttle services assistance were allegedly included in the Collective Negotiation Agreement between PhilHealth Employees Association, the duly recognized union of PhilHealth rank-and-file employees, and the PhilHealth management for the year 2007 to 2010.

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With respect to the rest of the benefits and incentives, the disbursements lacked legal basis. Again, petitioners failed to present any law or [DBM] issuance authorizing the grant of these benefits and incentives in question. By legal fiction, these disallowed benefits and

<sup>64</sup> *National Tobacco Administration v. Commission on Audit*, supra note 48.

<sup>65</sup> *Id.*

<sup>66</sup> G.R. No. 230218, July 6, 2021.

incentives are deemed incorporated in the standardized salary.<sup>67</sup>

The above-mentioned ruling applies squarely to the present controversy.

All in all, the compendium of disallowance cases involving Philhealth consistently rejects Philhealth's so-called fiscal autonomy as justification for the payment of benefits and allowances to its employees. To be valid, every allowance/benefit payment shall be supported by a DBM issuance expressly declaring it as non-integrated. Otherwise, succeeding payments of unauthorized allowances or benefits shall be subject to disallowance for being in violation of the general standardization rule under the SSL.

## V

The payees of the EAA and Birthday Gift and the officers who approved and/or certified the grant/payment thereof are liable for the disallowance. Their respective liabilities are discussed below.

### *Approving/Certifying Officers*

The prevailing rule states that “[a]pproving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount.”<sup>68</sup>

Verily, as public officials, these approving/certifying officers are presumed to have performed their duties regularly and in good faith.<sup>69</sup> However, these presumptions of regularity and good faith are negated when it is shown that the officer did not act with the diligence of a good father of a family.<sup>70</sup> In which case, he/she shall be liable for all the losses arising out of his/her negligence or lack of diligence.<sup>71</sup>

<sup>67</sup> Id.


<sup>68</sup> *Madera v. Commission on Audit*, G.R. No. 244128, September 8, 2020.

<sup>69</sup> *National Transmission Corp. v. Commission on Audit*, G.R. No. 232199, December 1, 2020.

<sup>70</sup> *Patadon v. Commission on Audit*, G.R. No. 218347, March 15, 2022.

<sup>71</sup> Section 19.1.3 of the Manual on Certificate of Settlement and Balances (as prescribed in COA Circular 94-001, January 20, 1994) provides:

Section 19.1.3 Public officers who approve or authorize transactions involving the expenditure of government funds and uses of government properties shall be liable for all losses arising out of their negligence or failure to exercise the diligence of a good father of a family.





In line with the diligence required of them, approving/certifying officers are duty-bound to be conversant<sup>72</sup> with the transactions falling within their fiscal responsibility. A prudent approving/certifying officer is expected to be abreast with prevailing laws and COA regulations, including the latest policy developments, on-going/previous audit investigations, disallowance proceedings, and COA Proper/Court rulings that govern or otherwise have an effect on these transactions.

In the present case, it appears that the COA had been questioning Philhealth's payment of EAA and Birthday Gift *as early as 2008*. The COA already disallowed these types of disbursements on previous occasions:

- (1) PHIC NDs 2008-056(07) and 2008-056(07), both dated December 18, 2008, disallowed Birthday Gift and EAA payments, respectively, during calendar year 2007. These disallowances were affirmed by the Court in 2020.<sup>73</sup>
- (2) NDs 09-005-501-(09) to 09-019-501-(09) issued in 2009, disallowed the payment of various benefits to Philhealth CARAGA officers, employees and contractors during calendar year of 2009, which included among others, EAA and Birthday Gift. These disallowances were upheld by the Court in 2018.<sup>74</sup> Notably, Philhealth acknowledges<sup>75</sup> that these 2009 NDs also dealt with the same benefits that are now subject of this controversy.

The Philhealth officers' respective approvals/certifications in the case, notwithstanding the above-enumerated 2008/2009 disallowances that cast doubt over the validity/regularity of the exact same benefit types now at issue, only tell the Court that they were either *ignorant of the investigations/disallowance proceedings* or aware of those developments but *chose to turn a blind eye thereto*. In the Court's mind, they cannot be regarded to have regularly performed their duties or to have acted in good faith.<sup>76</sup> This was also the Court's ruling in *Philippine*

<sup>72</sup> *Patadon v. Commission on Audit*, supra.

<sup>73</sup> *Philippine Health Insurance Corp. v. Commission on Audit*, G.R. No. 235832, November 3, 2020.

<sup>74</sup> See *Philippine Health Insurance Corp. Regional Office-Caraga v. Commission on Audit*, 838 Phil. 600 (2018).

<sup>75</sup> *Rollo*, p. 18.

<sup>76</sup> In *Madera v. Commission on Audit*, supra note 68, following Justice Leonen's proposal, the Court declared that an approving/certifying officer, despite the disallowance, may be considered to have exercised the diligence of a good father of the family and thus continue to benefit from the presumptions of regularity in the performance of official functions and good faith if, among others, "[the disbursement] is traditionally practiced within the agency and no prior disallowance

*Health Insurance Corp. Regional Office-CARAGA v. Commission on Audit (Resolution)*.<sup>77</sup> Consequently, the approving/certifying officers shall be solidarily liable for the net disallowed amount.

### *Payees*

Philhealth relies on the August 14, 2018 ruling in *Philippine Health Insurance Corp. Regional Office-Caraga v. Commission on Audit (Decision)*,<sup>78</sup> wherein the Court did not require the payees therein to refund the disallowed amounts on account of their good faith.<sup>79</sup>

However, the Court has since *reversed* the decision exonerating the payees. The Court rejected the defense of good faith and emphasized that payees may be absolved from their liability to refund the corresponding portion of the disallowed amount, by exception, only when the subject disbursements had been adequately supported by factual and legal basis in the first place.<sup>80</sup>

Prevailing jurisprudence stresses that a payee's liability in a disallowance case is *quasi-contractual (solutio indebiti)*:<sup>81</sup> when a disbursement is adjudged to be illegal, irregular, excessive, extravagant, and/or unconscionable, an individual's receipt of any portion thereof is regarded as erroneous. In *Madera v. Commission on Audit*,<sup>82</sup> (*Madera case*) the Court declared that if a disallowance is upheld, the recipients are liable to return the disallowed amount respectively received by them.<sup>83</sup>

In light of these developments, the Court deems it proper to determine the payees' liability in the present case in accordance with the prevailing framework on the rules of return<sup>84</sup> and consistent with the

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has been issued.”

<sup>77</sup> Supra note 66.

<sup>78</sup> Supra note 74.

<sup>79</sup> *Rollo*, p. 32.

<sup>80</sup> *Philippine Health Insurance Corp. Regional Office-CARAGA v. Commission on Audit (Resolution)*, supra note 66.

<sup>81</sup> *Social Security System v. Commission on Audit*, G.R. No. 231391, June 22, 2021.

<sup>82</sup> Supra note 68.

<sup>83</sup> *Id.*

<sup>84</sup> In *Abrigo v. Commission on Audit*, G.R. No. 253117, March 29, 2022, the Court made a similar pronouncement: “Notwithstanding the similarities between this case and MWSS, We only deem instructive the Court's previous disquisition on the propriety of the NDs. We cannot arrive at a similar conclusion regarding petitioners' liability to return. MWSS involved a different set of allowances and NDs. Accordingly, the actions of the approving/certifying officers, as well as the possible bases of their good faith, vary. Also, the civil liability of petitioners in MWSS was

Court's ruling in *Philippine Health Insurance Corp. Regional Office-CARAGA v. Commission on Audit (Resolution)*, *supra*.

*On account of the nature of their liability, payees cannot be exempted therefrom by mere invocation of the good faith defense. They may be excused from this obligation only when: (1) they are able to show that the amounts they received were genuinely given in consideration of the services rendered (Rule 2c of Madera case), or (2) the Court excuses them based on undue prejudice, social justice considerations, or the bona fide exceptions as will be determined on a case-to-case basis (Rule 2d of Madera case ).*<sup>85</sup>

And as later clarified in *Abellanosa v. Commission on Audit*,<sup>86</sup> a payee may benefit from exception under Rule 2c of *Madera case* only when the following conditions concur: (a) if the personnel incentive or benefit has proper basis in law but is only disallowed due to irregularities that are merely procedural in nature; and (b) the personnel incentive or benefit must have a clear, direct, and reasonable connection to the actual performance of the payee recipient's official work and functions for which the benefit or incentive was intended as further compensation.<sup>87</sup>

The Court does not find any of the above-mentioned exceptions to be availing in the present case. *First*, the payments of EAA and Birthday Gift lack legal basis. As discussed above, these were granted *ultra vires* and cannot be classified as valid CNA Incentives (Rule 2c of *Madera case*). *Second*, there are no circumstances in the present case that compel the Court to excuse herein payees (Rule 2d of *Madera case*). In these lights, they must refund the corresponding amounts received in error.

**WHEREFORE**, the petition is **DISMISSED**. The COA Proper Decision dated January 29, 2018 and Resolution dated August 15, 2019 in COA CP Case No. 2015-683 are **AFFIRMED**.

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adjudged under a different framework. As mentioned, jurisprudence had since evolved to clarify the rules on return.”

<sup>85</sup> *Madera v. Commission on Audit*, *supra* note 68.

<sup>86</sup> G.R. No. 185806, November 17, 2020.

<sup>87</sup> *Id.*


**SO ORDERED.**



**HENRIJEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

On official business  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*



**MARVIC M.V.F. LEONEN**  
*Associate Justice*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



**RAMON PAUL L. HERNANDO**  
*Associate Justice*

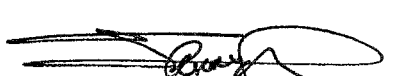


**AMY C. LAZARO-JAVIER**  
*Associate Justice*




**RODIL V. ZALAMEDA**  
*Associate Justice*

On official business  
**MARIO V. LOPEZ**  
*Associate Justice*



**SAMUEL H. GAERLAN**  
*Associate Justice*


**RICARDO R. ROSARIO**  
*Associate Justice*



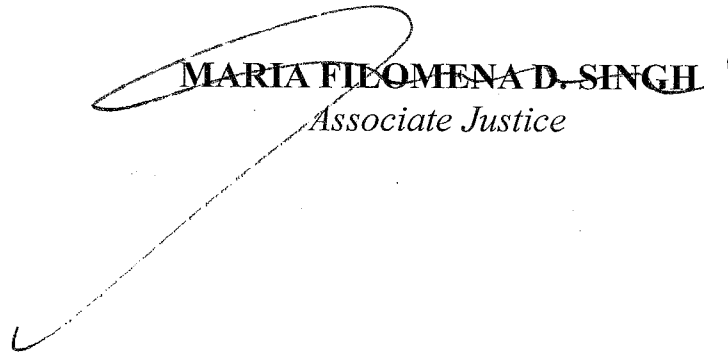
**JHOSEP V. LOPEZ**  
*Associate Justice*



**JAPAR B. DIMAAMPAO**  
*Associate Justice*

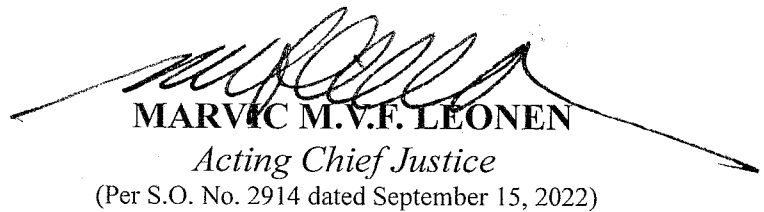
  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

  
**ANTONIO T. KHO, JR.**  
*Associate Justice*


  
**MARIA FILOMENA D. SINGH**  
*Associate Justice*

**CERTIFICATION**

*Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.*

  
**MARVIC M.V.F. LEONEN**  
*Acting Chief Justice*  
(Per S.O. No. 2914 dated September 15, 2022)

**CERTIFIED TRUE COPY**

  
**MARIA LUISA M. SANTILLA**  
Deputy Clerk of Court and  
Executive Officer  
OCC-En Banc, Supreme Court