REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

ESTATE OF HENRY T. LAO, as represented by its Administrator, JOSE T. LAO, *Petitioner,*	**CTA Case No. 10562**
	Members:
- *versus* -	**MANAHAN**, *Chairperson,* **REYES-FAJARDO**, *and* **ANGELES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 19 2024 11:30 a.m.

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D E C I S I O N

MANAHAN, *J.*:

THE CASE

In this Petition for Review[1] filed on June 28, 2021, petitioner Estate of Henry T. Lao, represented by its administrator, Jose T. Lao, seeks for the refund of the amount of Three Hundred Fifty Million Pesos (₱350,000,000.00), representing the alleged illegally collected Income Tax and Value-Added Tax for taxable year 2015.

THE PARTIES

Petitioner is the estate of Henry T. Lao, represented by its court-appointed administrator, Jose T. Lao.[2]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (CIR) vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said Office, including *inter alia*, the power to refund internal revenue taxes, fees or other

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[1] Docket, pp. 6-44.
[2] See Note 1, The Parties, Docket, p. 7.

charges, penalties pursuant to the provisions of the 1997 National Internal Revenue Code (NIRC), as amended, and other tax laws, rules, and regulations, with office address at the Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City.

THE FACTS

On December 1, 2015, Mr. Henry T. Lao died. After his death, his estate was subjected to judicial settlement of estate proceedings where his brother, Jose T. Lao, was appointed as the estate's administrator.[3]

In connection with the judicial settlement of estate proceedings, the Bureau of Internal Revenue (BIR), through Officer-in-Charge-Regional Director (OIC-RD) Antonio Jonathan G. Jaminola issued a Letter of Authority (LOA) eLA201600007674 LOA-008-2018-00000297.[4] Said LOA was received by Jose T. Lao on October 1, 2018.[5]

Pursuant to the LOA, the BIR sent to petitioner the following documents:[6] (1) Checklist for presentation of records;[7] (2) Second Request for presentation of records;[8] and (3) Final request for presentation of records.[9] The administrator and executor did not submit any of the required documents as requested in the LOA.[10]

On November 7, 2018, the BIR sent a Notice of Informal Conference which was received by petitioner. In the Notice, the BIR provided the administrator a period of ten (10) days to present the documents to support his objections.[11]

On January 9, 2019, a Formal Letter of Demand (FLD), including the Assessment Notice and Details of Discrepancy

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[3] See Note 1, Statement of the Case and of the Facts, par. 1, p. 8.
[4] Par. 3, Joint Stipulation of Facts and Issues (JSFI), Docket, p. 338; Exhibit "P-1", Docket, p. 61.
[5] Par. 4, JSFI, Docket, p. 339.
[6] Par. 5, JSFI, Docket, p. 339.
[7] Exhibit "P-1-b", BIR Records, pp. 2-3.
[8] Exhibit "P-1-c", BIR Records, p. 195.
[9] Exhibit "P-1-d", BIR Records, p. 196.
[10] Par. 6, JSFI, Docket, p. 339.
[11] Par. 7, JSFI, Docket, p. 339.

(ANDD) was issued by the Regional Director (RD).[12] Said notices were received by Katherine Lao on January 11, 2019.[13]

On January 23, 2019,[14] petitioner filed a request for reconsideration.

On June 7, 2019,[15] petitioner received a copy of the Final Decision on Disputed Assessment (FDDA) dated May 31, 2019 and issued by RD Ma. Gracia B. Javier. The FDDA pertinently states:

> "It is requested that the aforesaid deficiency tax liabilities be paid immediately upon receipt hereof, inclusive of penalties incident to delinquency. **This is our final decision. If you disagree, you may appeal this final decision to the Court of Tax Appeals (CTA) or to the Commissioner of Internal Revenue within thirty (30) days from the date of receipt hereof, otherwise this decision shall become final, executory and demandable**."[16]

Instead of filing an administrative protest or appeal, petitioner filed a request to avail of compromise settlement for the release of the Certificates Authorizing Registration (CAR) in relation to the judicial settlement of the estate proceedings.[17]

On June 28, 2019,[18] petitioner paid the total amount of Two Hundred Million pesos (₱200,000,000.00) in relation to the offer of compromise.

On July 3, 2019 and July 18, 2019, respectively, the administrator of petitioner submitted letter requests for the issuance of the CAR.[19] Consequently, Revenue District Officer (RDO) Gil B. Vinluan, Jr. issued a letter[20] dated July 26, 2019

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[12] Par. 8, JSFI, Docket, p. 339.
[13] Par. 9, JSFI, Docket, p. 339.
[14] Exhibit "P-6", Docket, pp. 71-77.
[15] Par. 10, JSFI, Docket, p. 339; Exhibit "P-7", Docket, pp. 78-83.
[16] See Note 15, p. 83.
[17] See Note 1, Statement of the Case and of the Facts, par. 15, p. 12.
[18] Exhibits "P-8" and "P-9", Docket, pp. 84-85.
[19] See Note 1, Statement of the Case and of the Facts, pars. 16-17, p. 13; Exhibits "P-10" and "P-11", Docket, pp. 86-88.
[20] Exhibit "P-12", Docket, pp. 89-90.

to inform petitioner that the request for the issuance of a CAR is denied.

Consequently, a Warrant of Distraint and/or Levy WDL-19-08-KDB-000002[21] dated August 14, 2019 was issued by respondent through RD Joseph M. Catapia (RD Catapia). Likewise, respondent, through RD Catapia, issued several Warrants of Garnishments all dated August 14, 2019 to different banks.[22]

On October 22, 2019, petitioner paid the BIR the total amount of One Hundred Fifty Million Pesos (P150,000,000.00).[23]

On October 23, 2019, respondent, through OIC-RD Douglas A. Rufino, issued several documents denominated as Lifting of Warrants of Garnishment to different banks.[24]

On March 9, 2020, respondent, through Officer-in-Charge-Assistant Commissioner of Internal Revenue (OIC-ACIR) Collection Service Head, Technical Working Group (TWG) on Compromise Clavelina S. Nacar, issued a Certificate of Availment (Compromise Settlement).[25] On this score, the National Evaluation Board approved petitioner's application for compromise settlement of deficiency income and value-added taxes amounting to One Billion Two Hundred Twenty Nine Million Nine Hundred Thirty Two Thousand One Hundred Thirty Nine & 50/00 Pesos (₱1,229,932,139.50).

On June 9, 2020, OIC-ACIR Collection Service Head, TWG on Compromise Clavelina S. Nacar issued the Authority to Cancel Assessment No. ACA201900002475,[26] where the BIR cancelled the amount of Eight Hundred Seventy-Nine Million Nine Hundred Thirty Two Thousand One Hundred Thirty Nine and 50/100 Pesos (P879,932,139.50) by virtue of petitioner's total payment in the amount of Three Hundred Fifty Million Pesos (₱350,000,000.00).

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[21] Exhibit "P-13", Docket, p. 91.
[22] Exhibits "P-16-A" to "P-16-S", Docket, pp. 94-130.
[23] Judicial Affidavit of Jose T. Lao, pars. 48-49, Docket, p. 55; Exhibit "P-26".
[24] Exhibits "P-20-A" to "P-20-S", Docket, pp. 134-152.
[25] Exhibit "R-6", BIR Records, p. 771.
[26] Exhibit "R-7", BIR Records, p. 772.

On June 23, 2021,[27] petitioner, through Jose T. Lao, filed an administrative claim for refund in the amount of Three Hundred Fifty Million Pesos (₱350,000,000.00).

On June 28, 2021, petitioner filed the instant Petition for Review without waiting for the decision of the CIR.

On December 11, 2021, the Court issued a Resolution[28] for the issuance of summons, among others.

In the interim, respondent issued a letter[29] dated December 24, 2021 denying petitioner's administrative claim for refund.

On March 3, 2022, respondent filed his Answer,[30] where he raised the following Special and Affirmative Defenses: (1) the Honorable Court has no jurisdiction over the instant petition; (2) Compromise Agreement and payment to settle deficiency taxes has the effect of res judicata; (3) petitioner is not entitled to refund; (4) assessment is final; and (5) due process was observed.

On June 10, 2022, petitioner[31] and respondent[32] filed their respective pre-trial briefs. On July 13, 2022, the parties filed their Joint Stipulation of Facts and Issues.[33] On August 3, 2022, the Court issued its Pre-Trial Order.[34]

During the hearing, petitioner presented Mr. Jose T. Lao[35] as witness.

On November 18, 2022, petitioner filed its Formal Offer of Evidence.[36] On December 2, 2022, respondent filed his Comment (Re: Petitioner's Formal Offer of Evidence).[37] On

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[27] Exhibit "P-21", Docket, pp. 153-179.
[28] Docket, pp. 239-240.
[29] Exhibit "P-25", Docket, p. 304; Minutes of the Hearing dated October 19, 2022, Docket, p. 385.
[30] Docket, pp. 248-274.
[31] Docket, pp. 291-303.
[32] Docket, pp. 305-308.
[33] Docket, pp. 338-348.
[34] Docket, pp. 370-380.
[35] Exhibit "P-26", Judicial Affidavit of Jose T. Lao, Docket, pp. 47-56; Minutes of the Hearing dated September 21, 2022, Docket, p. 382.
[36] Docket, pp. 388-403.
[37] Docket, pp. 405-407.

January 4, 2023, the Court issued a Resolution[38] admitting petitioner's pieces of evidence.

On the other hand, respondent presented Revenue Officer (RO) Kevin D. Baula[39] as witness.

On July 21, 2023, respondent filed its Formal Offer of Evidence.[40] On August 7, 2023, petitioner filed its Comments on/Objections to the Formal Offer of Evidence for the Respondent.[41] On October 16, 2023, the Court issued a Resolution[42] admitting respondent's pieces of evidence and requiring the parties to file their respective memoranda.

On December 4, 2023, respondent filed his Memorandum.[43] On January 11, 2024, petitioner filed its Memorandum for the Petitioner (With Apologies).[44]

On January 19, 2024,[45] the Court issued a Resolution submitting the case for decision. Hence, this Decision.

THE ISSUES

The parties submitted the following issues to be resolved by the Court:

> a. Whether Petitioner is entitled to the refund in the total amount of Three Hundred Fifty Million Pesos (₱350,000,000.00);
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> b. Whether the Court has jurisdiction over petitioner's claim for refund;
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> c. Whether the LOA, Assessment and FDDA are valid; and

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[38] Docket, pp. 413-416.
[39] Exhibit "R-9", Judicial Affidavit of Revenue Officer Kevin Baula, Docket, pp. 331-337; Minutes of the Hearing dated July 11, 2023, Docket, p. 419.
[40] Docket, pp. 422-428.
[41] Docket, pp. 431-436.
[42] Docket, pp. 440-441.
[43] Docket, pp. 442-476.
[44] Docket, pp. 480-519.
[45] Docket, p. 521.

d. Whether the Warrant of Distraint and Levy (WDL) is valid.[46]

THE RULING

The Court has jurisdiction over the instant case

Section 7 (a)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282, provides:

> "Section 7. *Jurisdiction.* — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, **or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**, where the National Internal Revenue Code provides for a specific period for action, in which case the inaction shall be deemed a denial" *(Emphasis supplied)*

Under the above-quoted provisions, the Court has jurisdiction over the decisions of the CIR in cases involving: (1) disputed assessments; (2) refunds of internal revenue taxes, fees, or other charges, penalties in relation thereto; or (3) other matters arising under the 1997 NIRC, as amended, or other laws administered by the BIR.

Based on the foregoing provision, it is clear that the appellate jurisdiction of this Court is not limited to cases which involve decisions of respondent on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the 1997 NIRC, as amended, or related laws administered by respondent.[47]

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[46] Stipulation of Issues, par. 12, JSFI, Docket, p. 340.
[47] *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*, G.R. No. 169225, November 17, 2010.

In the recent case of *Commissioner of Internal Revenue v. Manila Medical Services, Inc. (Manila Doctors Hospital)*,[48] the Supreme Court reiterated the CTA's jurisdiction on "other matters", as follows:

> "Contrary however to the CIR's argument, Section 7 (a) (1) of Republic Act No. (RA) 1125, as amended by RA 9282, which confers upon the CTA the jurisdiction to decide not only cases on disputed assessments and refunds of internal revenue taxes, but also "other matters" arising under the NIRC:
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> SEC. 7. Jurisdiction. — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue [Code] or other laws administered by the Bureau of Internal Revenue[.]
>
> As explained by the Court in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division*, the exclusive appellate jurisdiction of the CTA Division is not limited to cases involving decisions of the CIR or matters relating to assessments or refunds. **The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the BIR**. xxx"[49] *(Emphasis supplied)*

Meanwhile, Sections 204(A) and 229 of the 1997 NIRC, as amended, are relevant to the present case. Said provisions respectively provide:

> "**SEC. 204.** ***Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*** –
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> The Commissioner may –
>
> (A) Compromise the payment of any internal revenue tax, when:
>
> (1) A reasonable doubt as to the validity of the claim against the taxpayer exists, or

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[48] G.R. No. 255473, February 13, 2023.
[49] *Id.*, citing G.R. No. 258947.

> (2) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax. xxx"

> "**SEC. 229.** ***Recovery of Tax Erroneously or Illegally Collected.*** - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be filed unless there is a full or partial denial of the claim for refund or credit by the Commissioner or there is a failure on the part of the Commissioner to act on the claim within the one hundred eighty (180)-day period under Section 204 of this Code; Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.
>
> In case of full or partial denial of the claim for tax refund, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred eighty (180)-day period, appeal the decision with the Court of Tax Appeals."

Here, the subject matter of the case involves the refund of the amount paid by reason of an alleged compromise agreement under Section 204(A) in relation to Section 229 of the 1997 NIRC, as amended. As such, the same is clearly covered by "other matters" that arise out of the 1997 NIRC, as amended. Hence, the Court has jurisdiction over the instant case.

The FDDA dated May 31, 2019 is final and executory

Before proceeding to determine whether petitioner is entitled to its refund claim of the alleged compromise settlement amount, it is noteworthy that the issue in this case emanated from the FDDA dated May 31, 2019, wherein petitioner was assessed the total amount of One Billion Two Hundred Twenty Nine Million Nine Hundred Thirty Two Thousand One Hundred Thirty Nine & 50/00 Pesos (₱1,229,932,139.50) representing deficiency income and value-added taxes.

As stated earlier, the said FDDA pertinently states:

> "It is requested that the aforesaid deficiency tax liabilities be paid immediately upon receipt hereof, inclusive of penalties incident to delinquency. **This is our final decision. If you disagree, you may appeal this final decision to the Court of Tax Appeals (CTA) or to the Commissioner of Internal Revenue within thirty (30) days from the date of receipt hereof, otherwise this decision shall become final, executory and demandable.**"[50]

Again, records reveal that instead of filing a request for reconsideration with the CIR or an appeal, petitioner filed a request to avail compromise settlement for the release of CAR in relation to the judicial settlement of the estate proceedings.[51]

In this regard, Section 228 of the 1997 NIRC, as amended, relevantly provides:

> "**SEC. 228. *Protesting of Assessment.*** - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a pre-assessment notice shall not be required in the following cases:
>
> xxx xxx xxx
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within

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[50] See Note 16.
[51] See Note 17.

> thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable."

Here, petitioner failed to appeal the FDDA within the statutory period. As provided in Section 228 of the 1997 NIRC, as amended, the failure of a taxpayer to appeal from an assessment on time renders the assessment final, executory and demandable. Consequently, petitioner is precluded from disputing the correctness of the assessment.[52]

Petitioner is not entitled to its refund claim of the alleged compromise settlement amount

On this score, Section 3(1) and Section 3(2) of Revenue Regulations (RR) No. 07-01 respectively provide:

> "SECTION 3. *BASIS FOR ACCEPTANCE OF COMPROMISE SETTLEMENT.* — The Commissioner may compromise the payment of any internal revenue tax on the following grounds:
>
> 1. *Doubtful validity of the assessment.* — The **offer to compromise** a delinquent account or disputed assessment under these Regulations on the ground of reasonable doubt as to the validity of the assessment may be accepted when it is shown that:"
>
> xxx xxx xxx
>
> 2. *Financial incapacity.* — The **offer to compromise** based on financial incapacity may be accepted upon showing that:
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> xxx xxx xxx" *(Emphasis supplied)*

Based on the above-quoted provision, the taxpayer must show, through an offer to compromise, the basis for acceptance of compromise settlement, *i.e.*, doubtful validity of the assessment or financial incapacity.

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[52] *Rizal Commercial Banking Corp. v. Commissioner of Internal Revenue*, G.R. No. 168498, June 16, 2006], 524 PHIL 524-533.

In this regard, petitioner alleges that it filed a request for the approval of the availment of compromise settlement, as follows:

> "15. As the properties were being held hostage by the respondent, and in the meantime, the Estate of Henry T. Lao could not make use of the properties for its businesses for lack of a tax clearance, the administrator, realizing the urgent need to settle the estate, had no other recourse but to file a request for the approval of the availment of compromise settlement in order for the BIR to process and release the Certificates Authorizing Registration. xxx"[53]

While petitioner alleges that it filed a request for the approval of the availment of compromise settlement, a review of the records shows that no evidence was presented to prove this allegation. As such, the Court cannot determine from the pieces of evidence whether the alleged compromise settlement was made pursuant to a doubtful validity of the assessment or petitioner's financial incapacity.

Due to lack of evidence to prove that there was, indeed, an offer of compromise, The Court cannot determine whether the alleged compromise between petitioner and respondent satisfied the following conditions and limitations set forth in RR No. 07-01:

> "SECTION 4. *PRESCRIBED MINIMUM PERCENTAGES OF COMPROMISE SETTLEMENT.* — The compromise settlement of the internal revenue tax liabilities of taxpayers, reckoned on a per tax type assessment basis, shall be subject to the following minimum rates based on the basic assessed tax:
>
> 1. *For cases of 'financial incapacity'* —
>
> 1.1. If taxpayer is an individual whose only source of income is from employment and whose monthly salary, if single, is P10,500 or less, or if married, whose salary together with his spouse is P21,000 per month, or less 10%
>
> 1.2. If taxpayer is an individual without any source of income 10%

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[53] See Note 17.

1.3. Where the taxpayer is under any of the following conditions:

1.3.1. Zero networth computed in accordance with Sec. 3.2(c) hereof 10%

1.3.2. Negative networth computed in accordance with Sec. 3.2(c) hereof 10%

1.3.3. Dissolved corporations 20%

1.3.4. Already non-operating companies for a period of:

(a) three (3) years or more as of the date of application for compromise settlement 10%

(b) Less than 3 years 20%

1.3.5. Surplus or earnings deficit resulting to impairment in the original capital by at least 50% 20%

1.3.6. With moratorium/suspension of payments; declared insolvent or bankrupt 10%

2. *For cases of 'doubtful validity'*— A minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.

The taxpayer may, nevertheless, request for a compromise rate lower than forty percent (40%): *Provided, however,* that he shall be required to submit his request in writing stating therein the reasons, legal and/or factual, why he should be entitled to such lower rate: *Provided, further,* that for applications of compromise settlement based on doubtful validity of the assessment involving an offer lower than the minimum forty percent (40%) compromise rate, the same shall be subject to the prior approval by the NEB."

The herein prescribed minimum percentages shall likewise apply in compromise settlement of assessments consisting solely of increments, i.e., surcharge, interest, etc., based on the total amount assessed."

> "SECTION 5. *DOCUMENTARY REQUIREMENTS.* —
>
> 1. If the application for compromise is premised under Sec. 4.1.1 hereof, the taxpayer-applicant shall submit with his application (a) a certification from his employer on his prevailing monthly salary, including allowances; and (b) a sworn statement that he has no other source of income other than from employment.
>
> 2. If the application is premised under Sec. 4.1.2 hereof, the taxpayer-applicant shall submit with his application a sworn statement that he derives no income from any source whatever.
>
> 3. If the application is premised under Sec. 4.1.3 hereof, a copy of the applicant's latest audited financial statements or audited Account Information Form filed with the BIR shall be submitted with the application. Nonetheless, for situation under Sec. 4.1.3.3 hereof, the "Notice of Dissolution" submitted to SEC or other similar or equivalent document should likewise be submitted. For situation under Sec. 4.1.3.6, a copy of the order granting the moratorium or suspension of payments or of bankruptcy or insolvency shall be submitted."

Aside from lack of evidence to show the offer of compromise, further review of the records reveals that no evidence of the compromise agreement was presented during trial.

In *City of Makati v. Commissioner of Internal Revenue*,[54] petitioner City of Makati paid the amount of Four Hundred Million (₱400,000,000.00) during the pendency of the case with the Supreme Court. It manifested that said payment was in addition to the Two Hundred Million (₱200,000,000.00) it earlier paid in 2005-2006 as settlement of the case. Consequently, it filed a motion to dismiss on the ground that a compromise agreement was entered into by the parties.

Upon review, the Supreme Court found that there was no compromise agreement to be scrutinized. It held:

> "In *Gaisano v. Akol,* the Court defined a compromise agreement as a contract whereby the parties make reciprocal concessions, avoid litigation, or put an

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[54] G.R. No. 200395, March 15, 2023.

> end to one already commenced. The validity of the compromise agreement depends on its fulfillment of the requisites and principles of contracts dictated by law; its terms and conditions being not contrary to law, morals, good customs, public policy and public order.
>
> Compromise may be the favored method to settle disputes, but when it involves taxes, it may be subject to closer scrutiny by the courts. A compromise agreement involving taxes would affect not just the taxpayer and the BIR, but also the whole nation, the ultimate beneficiary of the tax revenues collected.
>
> Here, there is no compromise agreement to be scrutinized.
>
> xxx xxx xxx
>
> No copy of the alleged compromise agreement was attached; neither did the parties furnish the Court with a copy despite several notices.
>
> The BIR Payment Slip attached with the Motion to Dismiss with Prejudice cannot suffice. It does not prove the existence of a compromise agreement between the City of Makati and the BIR. *First*, nowhere was it shown in the BIR Payment Slip that the amount of P301,979,220.58 represents the full and final settlement of the present case. *Second*, the BIR Payment Slip shows that the payment was made for BIR Form No. 0605, accomplished and used by taxpayers for various reasons. According to the guidelines and instructions found at the back of any BIR Form No. 0605, the said form is for taxes and fees which do not require the use of a tax return such as second installment payment for income tax, deficiency tax, delinquency tax, registration fees, penalties, advance payments, deposits, installment payments, etc. In the absence of a copy of the alleged compromise agreement, the Court has no basis to conclude that the BIR Payment Slip was made pursuant to the compromise agreement alleged by the City of Makati, and not for any other reason."[55]

As stated earlier, petitioner failed to present proof of the following: (1) offer of compromise, and (2) compromise agreement.

The Court notes that respondent presented a Certificate of Availment (Compromise Settlement)[56] as evidence of an alleged offer of compromise. However, absent the relevant offer of

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[55] *Id.*, citing 667 Phil. 512-514 (2011).
[56] See Note 25.

compromise which is the subject of the said certification, the Court cannot give credence to the same.

Hence, in the absence of any evidence to prove the circumstances of a valid compromise in this case, the Court has no basis to conclude that petitioner's subject payments were made pursuant to a compromise agreement. Consequently, considering that the FDDA dated May 31, 2019 is final and executory, the payments made by petitioner are considered as payments for the assessed deficiency taxes.

Consequently, the present claim does not involve *any national internal revenue tax, penalty, or sum which have been erroneously or illegally collected*, as provided under Section 229 of the 1997 NIRC, as amended. Therefore, the denial of petitioner's refund claim is in order.

WHEREFORE, the instant Petition for Review is **DENIED**, for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice