REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

UNILEVER PHILIPPINES, INC., *Petitioner,*	**CTA AC NO. 119** (*RTC Civil Case No. 07-117064*)
-versus-	Members: **CASTAÑEDA, JR.,** *Chairperson* **CASANOVA,** and **COTANGCO-MANALASTAS,** *JJ.*
THE TREASURER OF THE CITY OF MANILA, *Respondent.*	**Promulgated:** JAN 05 2015 9:45 a.m.

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JUDGMENT ON COMPROMISE AGREEMENT

COTANGCO-MANALASTAS, *J.*:

For resolution is respondent's *Compliance/Manifestation & Motion for Reconsideration* filed on November 7, 2014 with petitioner's *Comment* filed on December 4, 2014.

Respondent prays that the Court reconsider its Resolution dated October 22, 2014 denying the parties' *Joint Motion for Judgment on Compromise Agreement* in view of the submission of a certified true copy of Manila City Council Resolution No. 335 entitled *"Resolution ratifying the compromise agreement dated July 4, 2014, made and entered into by and between the City of Manila, duly represented by the Honorable Mayor Joseph Ejercito Estrada and Unilever Philippines, Incorporated, duly represented by its Vice President for Finance, Mr. Ajay Gandhi, ending more than ten (10) years of litigation on the issue of the imposition of Section 21 of the Manila Revenue Code".*

Respondent prays that the said resolution ratifying the compromise agreement be considered sufficient compliance with the Court's directive to submit proof showing the authority of the Mayor to enter into the said agreement with petitioner. The ratification was not filed on time due to the volume of work on equally important case of respondent's counsel.

In this case, the parties filed a *Joint Motion for Judgment on Compromise Agreement* on August 11, 2014. The pertinent portions of the *Compromise Agreement* dated July 4, 2014 entered into by Unilever Philippines, Inc., through its Vice President for Finance, Mr. Ajay Gandhi, and the City of Manila, through its Mayor Joseph Ejercito Estrada, reads:

> "**WHEREAS**, an action for the refund of erroneously/excessively paid business taxes under Section 21 of the Revenue Code of Manila in the amount of Php12,775,758.10 was filed by UNILEVER against the CITY in Civil Case No. 07-117064, docketed as '*Unilever Philippines, Inc. v. The Treasurer of the City of Manila,*' and pending before the Court of Tax Appeals;
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> xxx xxx xxx
>
> **WHEREAS**, from the above pending cases, UNILEVER's total claim for refund of erroneously/excessively paid business taxes under Section 21 of the Revenue Code of Manila against the CITY amounts to Php284,153,771.06[1];
>
> xxx xxx xxx
>
> **WHEREAS**, in order to buy peace and to avoid the time, expenses and inconvenience of continued litigation in the Subject Cases, and considering further that the Supreme Court has declared with finality that Manila City Ordinance Nos. 7988 and 8011 are null and void, and legally not existing in G.R. No. 157490 and G.R. No. 156252 and that the Supreme Court has declared in G.R. No. 181845 that there is double taxation under Section 21 of Manila City Ordinance No. 7794 if entities/businesses such as UNILEVER are already paying local business taxes under Section 14 of the same ordinance, the parties have agreed to enter into a Compromise Agreement with the objective of ultimately putting an end to the litigation arising out of, connected with, or affecting or pertaining to, the rights and obligations of the parties in connection with the Subject Cases.
>
> **NOW THEREFORE**, for and in consideration of the above premises and of the terms and conditions hereinafter set forth, the parties hereby agree as follows:

[1] Includes the subject claim for refund in the amount of Php12,775,758.10.

1. In full settlement of the claims of UNILEVER set forth in Subject Cases, the CITY agrees to grant as it hereby grants UNILEVER, by way of Tax Credit, the aggregate amount of Php170,492,262.64, representing Sixty percent (60%) of the total claim of UNILEVER (the 'Tax Credit'). For this purpose, UNILEVER can utilize the Tax Credit in the maximum amount of Php56,830,754.21 per year until it is fully utilized. If UNILEVER incurs local business tax liability of more than Php56,830,754.21 in a given year, UNILEVER shall pay the excess in cash to the CITY. On the other hand, if UNILEVER incurs local business tax liability of less than Php56,830,754.21 in a given year, the remaining balance of the Tax Credit Certificate shall be utilized in the succeeding year or years until the Tax Credit is fully utilized/exhausted.

2. The Tax Credit Certificate corresponding to the Tax Credit shall be issued by the CITY, and may be used by UNILEVER or any of their subsidiaries and/or affiliates, in the payment of business taxes, permit fees, and other fees and regulatory charges, and any other form of assessment or exaction legally due from the CITY except real property taxes (the business taxes, permit fees, regulatory charges, and any other form of assessment or exaction except real property taxes shall be collectively referred to as 'local taxes except real property taxes,' which may fall due in favor of the CITY). UNILEVER or any of their subsidiaries and/or affiliates shall have the right to make use of the Tax Credit for such period of time as may be necessary until said Tax Credit has been fully utilized.

3. The CITY declares and confirms that the Tax Credit Certificate issued pursuant to this Agreement shall, upon presentment by UNILEVER or any of their subsidiaries and/or affiliates be automatically accepted, credited and applied as payment by UNILEVER and any of their subsidiaries and/or affiliates for the local taxes except real property taxes due without need of any other requirement, document, endorsement, validation or other action as a condition for the acceptance thereof. The failure of the CITY to issue and release/deliver to UNILEVER the corresponding Tax Credit Certificate, or the dishonor or the refusal of the CITY to honor said Tax Credit Certificate so issued for whatever cause, shall entitle UNILEVER to the issuance of a Writ of Execution, from the appropriate Regional Trial Courts where the Subject Cases were filed or are pending, for the full amount of UNILEVER's claims, as the case may be, as set forth in the Petitions for Refund (the 'Petitions') filed in the application/s or use, if any, of the Tax Credit Certificate issued shall not be deducted from UNILEVER's original claims as set forth in the Petitions filed in the Subject Cases.

4. Nothing in this Agreement shall constitute or be construed as an admission or as evidencing or indicating in

any degree the truth of any claim asserted by either party in the Subject Cases.

5. UNILEVER and the CITY hereby agree and confirm that, subject to the full application or use of the Tax Credit Certificate to be issued pursuant to this Agreement, the above payment/grant of Tax Credit made by the CITY, and accepted by UNILEVER, shall and does constitute full settlement of all UNILEVER's claims against the CITY and such other claims that they have or may have in connection with, related to or arising from the Subject Cases.

6. Each party likewise mutually releases and forever discharges each other as well as the other's successors, from any and all actions, sums of money, claims and demands whatsoever, which in law or equity each party ever had, now have, or may in the future have in respect of the matters set forth in the Subject Cases.

7. This Agreement is executed by the parties hereto for the purpose of compromising and ending the Subject Cases, and of putting a bar to any future claims, demands or suits based upon, arising from or in connection with the Subject Cases. A copy of this Agreement shall be furnished the Courts where the Subject Cases are pending and the parties agree that it shall be the basis of a Joint Motion (To Render Judgment Based on Compromise Agreement) to be filed by the parties in the Subject Cases and shall bar any claim, present, future or contingent, that one party may have against the other."

In a Resolution dated August 22, 2014, the Court noted the parties' *Joint Motion for Judgment on Compromise Agreement* and ordered the parties to submit proof showing the authority of their respective signatories to enter into the *Compromise Agreement*, and directed the parties to furnish this Court with a copy of Annexes "A" to "A-4" mentioned in the *Compromise Agreement.*

On September 10, 2014, petitioner filed its *Compliance* to the above-cited order, submitting therewith copies of the Secretary's Certificate dated September 9, 2014, authorizing petitioner's Vice President for Finance, Mr. Ajay Gandhi, to enter into and sign the *Compromise Agreement* dated July 4, 2014 on behalf of the petitioner, and the certified true copy of the *Compromise Agreement* with attached Annexes "A" to "A-4".

On October 22, 2014, the Court noted petitioner's *Compliance* but denied the parties' prayers to have the subject

Compromise Agreement admitted/approved and to render a judgment on the basis thereof in view of respondent's failure to submit proof that its signatory (*i.e.,* City of Manila Mayor Joseph Ejercito Estrada) has the required authorization from the *Sanggunian* of the City of Manila to enter into and sign the said compromise agreement.

On November 7, 2014, respondent filed the instant *Compliance/Manifestation & Motion for Reconsideration* attaching thereto a certified true copy of Manila City Council Resolution No. 335, a resolution ratifying the subject compromise agreement. The city resolution reads:

RESOLUTION NO. 335[2]
Series of 2014

RESOLUTION RATIFYING THE COMPROMISE AGREEMENT DATED JULY 4, 2014, MADE AND ENTERED INTO BY AND BETWEEN THE CITY OF MANILA, DULY REPRESENTED BY THE HONORABLE MAYOR JOSEPH EJERCITO ESTRADA AND UNILEVER PHILIPPINES, INCORPORATED, DULY REPRESENTED BY ITS VICE PRESIDENT FOR FINANCE, MR. AJAY GANDHI, ENDING MORE THAN TEN (10) YEARS OF LITIGATION ON THE ISSUE OF THE IMPOSITION OF SECTION 21 OF THE MANILA REVENUE CODE.

WHEREAS, an action for the refund of erroneously/excessively paid business taxes under Section 21 of the Revenue Code of Manila was filed by the [*sic*] UNILEVER against the City;

WHEREAS, in the case of *Liberty Toledo et al. vs. Coca-cola Bottler's Philippines, Inc.*, G.R. no. 18145 [*sic*], the Honorable Supreme Court had the occasion to rule that the imposition of Section 21 to businesses already paying taxes under Section 14 of Manila Revenue Code constitutes prohibited double taxation;

WHEREAS, anchoring on the aforesaid Supreme Court decision, the City Treasurer and the City Legal Officer, favorably recommended to the Office of the Mayor that a compromise agreement be entered into by the City of Manila and Unilever Philippines, Inc.: NOW, THEREFORE, be it

[2] Regular Session No. 105, 9th City Council; administrative measure sponsored by Marlon M. Lacson, Majority Floor Leader; regular session held on September 11, 2014 and presided by Edward V.P. Maceda, President Pro-Tempore and Acting Presiding Officer, City Council, Manila; resolution attested by Luch R. Gempis, Jr., City Government Department Head III, Secretary of the City Council.

> RESOLVED, by the City Council of Manila to ratify, as it hereby ratifies the compromise agreement, dated July 4, 2014, made and entered into by and between the City of Manila, duly represented by the Honorable Mayor Joseph Ejercito Estrada and Unilever Philippines, Incorporated, duly represented by its Vice President for Finance, Mr. Ajay Gandhi, ending more than ten (10) years of litigation on the issue of the imposition of Section 21 of the Manila Revenue Code.

On December 4, 2014, petitioner filed its *Comment*, stating that it interposes no objection to respondent's *Compliance/Manifestation & Motion for Reconsideration* and admits the genuineness and due execution of respondent's Manila City Council Resolution No. 335. Petitioner submits that the subject resolution is proof of Honorable Mayor Joseph Ejercito Estrada's authority to enter into a compromise agreement on behalf of respondent.

Article 1306 of the Civil Code of the Philippines provides that contracting parties may establish such stipulations, clauses, terms, and conditions, as they may deem convenient, provided that they are not contrary to law, morals, good customs, public order, or public policy. A compromise agreement is a contract whereby the parties make reciprocal concessions, avoid a litigation, or put an end to one already commenced. It is an accepted, even desirable and encouraged, practice in courts of law and administrative tribunals.[3]

A compromise agreement intended to resolve a matter already under litigation is a judicial compromise. Having judicial mandate and entered as its determination of the controversy, it has the force and effect of a judgment. It transcends its identity as a mere contract between the parties as it becomes a judgment that is subject to execution in accordance with the Rules of Court. Thus, a compromise agreement that has been made and duly approved by the court attains the effect and authority of *res judicata*, although no execution may be issued unless the agreement receives the approval of the court where the litigation is pending and compliance with the terms of the agreement is decreed.[4]

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[3] *California Manufacturing Company, Inc. vs. The City of Las Piñas and the Hon. Rizal Y. Del Rosario, City Treasurer*, G.R. No. 178461, June 22, 2009 citing Article 2028, Civil Code of the Philippines, *Harold vs. Aliba*, G.R. No. 130864, October 2, 2007 and *DMG Industries, Inc. vs. Philippine American Investments Corporations*, G.R. No. 174114, July 6, 2007.

[4] *Ibid*, citing *Viesca vs. Gilinsky*, G.R. No. 171698, July 4, 2007.

In view of the foregoing, *We* hold that Resolution No. 335, Series of 2014, of the City Council of Manila as sufficient compliance with the required proof of authority from the *Sanggunian* to enter into the subject compromise agreement.

Finding the *Compromise Agreement* entered into by the parties to be validly executed and not contrary to law, morals, good customs, public order or public policy, *We* therefore, accept and approve the same.

WHEREFORE, the instant *Motion for Reconsideration* is **GRANTED**. Accordingly, the *Compromise Agreement* dated July 4, 2014 entered into by the parties is **APPROVED** and judgment is hereby rendered in accordance therewith. The parties are enjoined to faithfully comply with all the terms and conditions set forth in said compromise agreement.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ATTESTATION

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

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice