REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

APO CEMENT CORPORATION, Petitioner,	**C.T.A. CASE NO. 7386**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** MAY 29 2009

x- x

1:00 p.m.

RESOLUTION

For resolution is petitioner's **"Motion to Cancel Tax Assessment (With Motion to Admit Attached Formal Offer of Evidence)"** filed on April 27, 2009. Respondent did not file his comment thereto despite notice.

In its motion, petitioner prayed for an order/resolution be issued: (i) granting the admission of its Formal Offer of Evidence; (ii) granting the motion to cancel assessment pursuant to the provisions of RA 9480; and (iii) canceling the assessment notices issued against the petitioner for deficiency income tax in the amount of P42,054,640.99 and deficiency Value Added Tax in the amount of P11,642,200.64 for taxable year 2002.

As regards petitioner's *Motion to Admit Attached Formal Offer of Evidence*, the same is hereby **GRANTED**, and petitioner's *Formal Offer of Evidence* is **ADMITTED**. Accordingly, **Exhibits "D"** to **"VV-1"** are hereby

ADMITTED, subject to the Court's final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in this case.

As regards the **"Motion to Cancel Tax Assessment,"** a perusal of the records reveals that petitioner, a qualified tax amnesty applicant, has availed of the tax amnesty on January 25, 2008, and has fully complied with the requirements set forth in RA No. 9480, Department Order No. 29-07, and Revenue Memorandum Circular No. 19-2008; and the one (1)-year period provided under Section 4 of RA 9480 had lapsed.

Pursuant to the decision of the Supreme Court in the ***Philippine Banking Corporation, (now Global Business Banking) vs. Commissioner of Internal Revenue*** (G.R. No. 170574, January 30, 2009), petitioner's **"Motion to Cancel Tax Assessment"** is hereby **GRANTED.**

WHEREFORE, premises considered, the subject assessments for deficiency Income Tax and deficiency Value Added Tax for the year 2002 are hereby **CANCELLED** and **SET ASIDE** solely in view of petitioner's availment of the Tax Amnesty under RA 9480.

Accordingly, the instant case is hereby considered **CLOSED** and **TERMINATED.**

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice