REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

UPS DELBROS INTERNATIONAL EXPRESS LTD., INC., *Petitioner*,	**CTA CASE NO. 10246**
	Members:
-versus-	**RINGPIS-LIBAN,** *Chairperson, and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 2 1 2022 11:20 a.m.

x -- x

JUDGMENT ON COMPROMISE AGREEMENT

MODESTO-SAN PEDRO, J.:

For the Court's resolution are petitioner's a) ***Motion to Render Judgment Based on Compromise Agreement ("Motion")***, filed on 9 July 2021,[1] without any Comment on the part of respondent;[2] b) ***Motion for Extension of Time to Submit Certificate of Availment [In Compliance with Resolution dated June 30, 2021]***, filed on 10 May 2022;[3] c) ***Motion for Extension of Time to Submit Certificate of Availment [In Compliance with Resolution dated June 30, 2021]***, filed on 6 July 2022;[4] and d) ***Compliance [Re: Resolution dated June 30, 2021] ("Compliance")***, filed on 18 July 2022.

On 16 January 2020, petitioner filed a Petition for Review ("Petition") assailing the Final Decision on Disputed Assessment ("FDDA") which found it liable for deficiency income tax, value added tax ("VAT"), expanded withholding tax ("EWT"), fringe benefits tax ("FBT"), final withholding tax ("FWT"), improperly accumulated earnings tax ("IAET"), and documentary stamp tax ("DST") in the amount of Php298,962,617.98.[5]

---

1 Division Records, pp. 437-448.
2 See Records Verification Report, dated 7 April 2022, Division Records.
3 Division Records.
4 *Ibid.*
5 Division Records, pp. 6-178.

In a Resolution, dated 26 August 2020, this Court submitted the instant case for mediation before the Philippine Mediation Center ("PMC").[6] On 17 December 2020, the parties requested for additional time for mediation as there was a good possibility that an amicable settlement could be reached between them,[7] which was granted by this Court in a Resolution, dated 12 January 2021.[8] Thereafter, on various dates, petitioner moved to extend the time to complete mediation in view of the pending compromise settlement between the parties,[9] which were all granted by this Court.[10]

On 21 June 2021, a Mediator's Report was submitted by PMC manifesting that there was a completed compromise between the parties.[11] The parties then submitted a Compromise Agreement signed by the parties[12] and proofs of payment of the compromise amount totaling Php57,561,146.90.[13] The Compromise Agreement provided, as follows:

> "WHEREAS, the BIR issued a Decision dated December 4, 2019 ('Decision') denying UDE's request for reconsideration of the Final Decision on Disputed Assessment with attached Details of Discrepancies dated June 30, 2016 ("FDDA") which affirmed the BIR's assessment against UDE for alleged deficiency income tax, value added tax, expanded withholding tax, fringe benefit tax, final withholding tax, improperly accumulated earnings tax and documentary stamp tax in the aggregate amount of Two Hundred Ninety Eight Million Nine Hundred Sixty Two Thousand Six Hundred Seventeen Pesos and 98/100 (P298,962,617.98), inclusive of surcharge, interest and compromise penalty.
>
> WHEREAS, UDE filed a Petition for Review with the Honorable Court of Tax Appeals ('CTA'), docketed as CTA Case No. 10246, appealing the Decision and seeking the cancellation of the Formal Assessment Notice dated December 18, 2014 for lack of factual and legal basis.
>
> WHEREAS, in letters dated November 6, 2020 and February 9, 2021, UDE submitted an Offer for Compromise signifying its intention to enter into an amicable settlement with the BIR pursuant to the provisions of the Civil Code of the Philippines, jurisprudence and relevant provisions on compromise agreements.
>
> WHEREAS, the parties have agreed to accept mediation to avoid prolonged litigation, as authorized by A.M. No. 11-1-05-SC-PHILJA.
>
> WHEREAS, the assistance of the assigned mediator resulted in making the parties realize the advantage of ending their dispute by agreeing upon a compromise.

---

6 *Id.*, pp. 355-356.
7 *Id.*, p. 358.
8 *Id.*, pp. 359-360.
9 *Id.*, pp. 361-371; pp. 374-378; pp. 381-386.
10 Resolution, dated 15 February 2021, *id.*, pp. 372-373; Resolution, dated 2 March 2021, *id.*, pp. 379-380; Resolution, dated 27 May 2021, *id.*, p. 388.
11 *Id.*, p. 389.
12 *Id.*, pp. 396-402.
13 *Id.*, pp. 403-417.

WHEREAS, the BIR has evaluated UDE's proposal for amicable settlement and believes that a judicial compromise to allow immediate tax collection and to put an end to litigation as provided in the Civil Code of the Philippines serve the interest of the Government.

WHEREAS, the Honorable CTA has issued rulings allowing judicial compromise similar to the instant case.

WHEREAS, the PARTIES have agreed to enter into a compromise settlement pursuant to the provisions of the Civil Code of the Philippines, jurisprudence, relevant decisions of the Honorable CTA, and relevant laws on judicial compromise without contravening law, morals, public order and public policy;

WHEREAS, for the purpose of avoiding and putting an end to a protracted, expensive, and mutually prejudicial litigation, the PARTIES have agreed to amicably settle the above-mentioned case, upon terms and conditions hereinafter set forth;

NOW THEREFORE, for and in consideration of the foregoing premises, the PARTIES hereto have agreed as follows:

Section 1. Compromise Amount. In order to settle the above-mentioned case, UDE has offered and the BIR has accepted the total compromise amount of Fifty Seven Million Five Hundred Sixty One Thousand One Hundred Forty Six and 90/100 Pesos (P57,561,146.90).

Section 2. Submission to the Honorable CTA. This Agreement fully signed by the PARTIES shall be submitted to the Honorable CTA in CTA Case NO. 10246 and the PARTIES undertake to perform any and all acts, and to submit any and all documents required by the Honorable CTA to render a Judgment by Compromise Agreement in CTA Case No. 10246.

Section 3. Effectivity of the Agreement. This Agreement shall only take effect after signing thereof by the PARTIES. This Agreement shall thereafter remain in force and effect until completion and fulfillment of the covenants and undertaking of the PARTIES hereto.

Section 4. Deliverables of the PARTIES upon approval of this Agreement. Upon approval by the PARTIES of the terms of this Agreement, UDE undertakes to submit to the BIR proof of payment of the Compromise Amount, the BIR undertakes to execute and deliver to UDE any and all documents as may be required to effectively and fully implement the provisions of this Agreement, withdrawing and cancelling the FAN and FDDA.

Section 5. Authority to Enter Compromise Agreement. The BIR, through Commissioner Caesar R. Dulay, warrants that it has the necessary authority and capacity under the law to enter, sign, and execute this Agreement, and to deliver its implementing documents.

UDE warrants that Christopher John Buono is duly authorized by its Board of Directors and has full legal capacity to enter, sign, and execute this Agreement, and to deliver payment of the Compromise Amount.

Section 6. Full and Final Settlement. This Agreement is executed by the PARTIES for the purpose of amicably settling and ending CTA Case

> No. 10246. Upon performance by UDE of its obligations under Section 4 hereof, the BIR recognizes the full satisfaction of the supposed tax liability, including any alleged deficiency interest, surcharge, and other penalties thereon, of UDE in connection with CTA Case No. 10246."

Following this Compromise Agreement, petitioner filed the instant ***Motion.***[14]

On 30 June 2021, the Court issued a Resolution requiring the parties to submit a Certificate of Availment confirming that the Compromise Agreement was approved by the majority of all the members of the Bureau of Internal Revenue ("BIR")'s National Evaluation Board ("NEB").[15]

Following its filing of the two ***Motions for Extension of Time*** mentioned above, petitioner submitted the required Certificate of Availment through its ***Compliance***.

Firstly, The ***Motion for Extension of Time to Submit Certificate of Availment [In Compliance with Resolution dated June 30, 2021]***, filed on 10 May 2022, and ***Motion for Extension of Time to Submit Certificate of Availment [In Compliance with Resolution dated June 30, 2021]***, filed on 6 July 2022, are hereby **GRANTED**.

Meanwhile, the ***Compliance [Re: Resolution dated June 30, 2021]*** filed on 18 July 2022 is hereby **NOTED**.

Considering the foregoing developments, and having found the submissions of the parties to be in accordance with ***En Banc Resolution No. 7-2021,***[16] the Court now resolves the ***Motion.***

Section 204(A) of the National Internal Revenue Code, as amended, ("NIRC") provides for the authority of the Commissioner of Internal Revenue ("CIR") to compromise the payment of any revenue tax, to wit:

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

[14] *Id.*, pp. 437-448.
[15] *Id.*, pp. 435-436.
[16] 22 June 2021.

> (2) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.
>
> The compromise settlement of any tax liability shall be subject to the following minimum amounts:
>
> For cases of financial incapacity, a minimum compromise rate equivalent to ten percent (10%) of the basic assessed tax; and
>
> **For other cases, a minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.**
>
> **Where the basic tax involved exceeds One million pesos (₱1,000.000) or where the settlement offered is less than the prescribed minimum rates, the compromise shall be subject to the approval of the Evaluation Board which shall be composed of the Commissioner and the four (4) Deputy Commissioners.** xxx"
> (Emphasis and underscoring, Ours.)

Based on the foregoing, a compromise settlement is deemed valid provided that the following requirements are met:

1. That the application for compromise should be based on either the **doubtful validity of respondent's assessment** or taxpayer's financial incapacity to pay such assessment;

2. In case the basis of the compromise offer is **doubtful validity, the minimum payment of compromise settlement shall be at the rate equivalent to forty percent (40%) of the basic assessed tax**, while if the ground is financial incapacity, the minimum payment should be at the rate equivalent to ten percent (10%) of the basic assessed tax; and

3. The **approval of the NEB** which is composed of the respondent and his four (4) Deputy Commissioners **if the subject assessment exceeds One Million pesos (₱1,000,000.00)** or **where the settlement offered is less than the prescribed minimum rates.**

In this case, the Compromise Agreement entered into by the parties is based on **doubtful validity of respondent's assessment**.

In order to determine whether the assessment's validity is indeed doubtful, the Court refers to ***Section 3 of Revenue Regulations ("RR") No. 30-2002**, **as amended*,**[17] which enumerates the instances on when the assessment's propriety is considered doubtful, to wit:

---

[17] Revenue Regulations Implementing Sections 7(c), 204(A) and 290 of the National Internal Revenue Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities Superseding Revenue Regulations Nos. 6-2000 and 7-2001, 16 December 2002; Revenue Regulations No. 08-04, Revenue Regulations Implementing Sections 7(c), 204 (A) and 290 of the National Internal Revenue Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities Superseding Revenue Regulations Nos. 7-2001 and 30-2002, 19 May 2004.

"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:

(a) The delinquent account or disputed assessment is one resulting from a jeopardy assessment (For this purpose, "jeopardy assessment" shall refer to a tax assessment which was assessed without the benefit of complete or partial audit by an authorized revenue officer, who has reason to believe that the assessment and collection of a deficiency tax will be jeopardized by delay because of the taxpayer's failure to comply with the audit and investigation requirements to present his books of accounts and/or pertinent records, or to substantiate all or any of the deductions, exemptions, or credits claimed in his return); or

(b) The assessment seems to be arbitrary in nature, appearing to be based on presumptions and there is reason to believe that it is looking in legal and/or factual basis; or

(c) The taxpayer failed to file an administrative protest on account of the alleged failure to receive notice of assessment and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(d) The taxpayer failed to file a request for reinvestigation/reconsideration within 30 days from receipt of final assessment notice and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(e) The taxpayer failed to elevate to the Court of Tax Appeals (CTA) an adverse decision of the Commissioner, or his authorized representative, in some cases, within 30 days from receipt thereof and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(f) The assessments were issued on or after January 1, 1998, where the demand notice allegedly failed to comply with the formalities prescribed under Sec. 228 of the National Internal Revenue Code of 1997; or

(g) Assessments made based on the "Best Evidence Obtainable Rule" and there is reason to believe that the same can be disputed by sufficient and competent evidence; or

(h) The assessment was issued within the prescriptive period for assessment as extended by tbe taxpayer's execution of Waiver of the Statute of Limitations the validity or authenticity of which is being questioned or at issue and there is strong reason to believe and evidence to prove that it is not authentic; or

(i) The assessment is based on an issue where a court of competent jurisdiction made an adverse decision against the Bureau, but for which the Supreme Court has not decided upon with finality."
(Emphasis and underscoring, Ours.)

Clearly, the scenario under ***Section 3.h of RR No. 30-2002, as amended,*** is present in this case. One of the grounds advanced in petitioner's Petition for Review[18] to prove the invalidity of the assessment is that the government's right to assess petitioner for deficiency income tax, VAT, EWT, FBT, FWT, IAET, and DST for taxable year 2010 has already prescribed. Petitioner posits that the waivers which respondent made petitioner execute are not valid since they did not comply with the requisites and formalities of a valid waiver. Hence, per petitioner, said waivers did not have the effect of extending the three-year prescriptive period. These allegations certainly qualify under the ground of doubtful validity of respondent's assessment. Accordingly, the first requisite is satisfied.

As for the second requisite, the judicial compromise amount paid by petitioner totalling to Fifty Seven Million Five Hundred Sixty One Thousand One Hundred Forty Six and 90/100 Pesos (P57,561,146.90) is equal to the 40% minimum payment required under ***Section 204(A) of the Tax Code***, computed as follows:

Tax Type	Basic Tax per FDDA[19]	40% of the Basic Tax
Income Tax	Php102,987,705.99	Php 57,561,146.90
VAT	21,694,510.64	
EWT	2,197,727.41	
FBT	2,533,355.76	
FWT	3,743,694.54	
IAET	10,089,679.91	
DST	656,193.00	
Total	Php143,902,867.25	

Hence, the second requisite for an application for compromise based on doubtful validity of respondent's assessment is complied with.

For the third requisite, the Court finds the Certificate of Availment sufficient evidence to prove that the BIR's NEB has duly approved the Compromise Agreement in accordance with the mandate of ***Section 6 of RR No. 30-2002, as amended***, to wit:

> "SECTION 6. Approval of Offer of Compromise. — Except for offers of compromise where the approval is delegated to the REB pursuant to the succeeding paragraph, all compromise settlements within the jurisdiction of the National Office (NO) shall be **approved by a <u>majority of all the members of the NEB</u> composed of the Commissioner and the four (4) Deputy Commissioners.** All decisions of the NEB, granting the request of the taxpayer or favorable to the taxpayer, shall have the consequence of the Commissioner.
>
> xxx xxx xxx

---

[18] Petition for Review, Division Records, pp. 12-20.

[19] Annex "O", *id.*, pp. 109-110.

> Provided, however, that if the offer of compromise is less than the prescribed rates set forth in Sec. 4 hereof, the same shall always be subject to the approval of the NEB. xxx"
> (Emphasis and underscoring, Ours.)

On this point, considering the faithful observance by the parties of all the requisites under ***Section 204(A) of the NIRC***, the Court hereby grants the ***Motion***.

The parties are reminded that a compromise agreement, once approved by the courts, becomes more than a mere contract; it has the force and effect of a judgment that is subject to execution and attains the effect and authority of *res judicata*, as discussed by the Supreme Court in the case of ***Viesca vs. Gilinsky***,[20] to wit:

> "A compromise agreement has been described as a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced. A compromise agreement that is intended to resolve a matter already under litigation is normally called a judicial compromise. **Once it is stamped with judicial imprimatur, it becomes more than a mere contract binding upon the parties. Having the sanction of the court and entered as its determination of the controversy, it has the force and effect of any other judgment. Such agreement has the force of law and is conclusive between the parties. It transcends its identity as a mere contract binding only upon the parties thereto, for it becomes a judgment that is subject to execution in accordance with the Rules. 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."
> (Emphasis and underscoring supplied)

WHEREFORE, premises considered, the ***Motion to Render Judgment Based on Compromise Agreement*** is **GRANTED.**

The **Compromise Agreement**, dated 29 April 2021, entered into by the parties is hereby **APPROVED**. This **Judgment on Compromise Agreement** is hereby rendered in accordance therewith. The parties are hereby enjoined to faithfully comply with all the terms and conditions of the aforesaid Compromise Agreement.

Accordingly, this case is now deemed **CLOSED** and **TERMINATED.**

---

[20] G.R. No. 171698, 4 July 2007.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

I CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

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

MA. BELEN M. RINGPIS-LIBAN
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 Judgment 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