REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

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SOLID CEMENT CORPORATION, Petitioner,	**CTA CASE NO. 6248**
	Members:
- versus -	**ACOSTA,** *Chairperson* **BAUTISTA,** and **CASANOVA,** JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** MAR 17 2011 1:45 pm

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AMENDED DECISION

CASANOVA, J.:

This resolves petitioner's **"Motion for Partial Reconsideration (with Prayer to Admit Attached Tax Amnesty Documents)"**[1] filed on February 18, 2009, with respondent's **"Comment"**[2] filed on March 20, 2009; and, respondent's **"Motion for Reconsideration"**[3] filed on June 30, 2009, with petitioner's manifestation on August 4, 2009 that it will no longer file an opposition.

The facts of the case follow.

On January 18, 2000, petitioner received from the Bureau of Internal Revenue (**BIR**) Enforcement Service a Formal Letter of Demand, Details of

[1] *Rollo*, pp. 697-720.
[2] *Ibid*, pp. 978-984.
[3] *Ibid*, pp. 989-1005.

Discrepancy and Assessment Notices for the alleged deficiency income tax, value-added tax (VAT), expanded withholding tax and final withholding tax for the taxable year ended December 31, 1997. Thus, petitioner filed a protest against said assessment.

Sometime thereafter, petitioner received a letter from the BIR informing petitioner that a reinvestigation of its internal revenue tax liabilities will be conducted. After reinvestigation, petitioner received a letter from the BIR informing it that the findings made by the Revenue Officers in the original examinations are correct.

Petitioner then filed the instant Petition for Review on March 15, 2001 praying for the cancellation of the assessments.

On November 6, 2001, the parties filed a "Joint Stipulation of Facts and Issues," where petitioner expressed its willingness to settle the deficiency VAT assessment and the corresponding portion of the deficiency income tax assessment related thereto. In a Resolution dated November 9, 2001, the Court approved the same; hence, pre-trial was terminated.

On November 8, 2006, petitioner filed for an abatement of its penalties, surcharges and interests under the abatement program of the BIR. It paid both the basic expanded withholding tax and the basic final tax on December 8, 2006. Thereafter, on February 26, 2007, petitioner filed a Manifestation informing the Court of its availment of the abatement program.

Subsequently, petitioner availed the tax amnesty under Republic Act (RA) No. 9480 or the Tax Amnesty Law on February 12, 2008.

On January 30, 2009, the Court issued a Decision holding petitioner liable for deficiency income, expanded withholding, and final withholding taxes amounting to ₱72,954,936.74. It was likewise held liable for the payment of 20% delinquency interest pursuant to Section 249(C) of the 1997 Tax Code. The Court held that petitioner cannot be deemed to have availed of the abatement program as it did not present the Termination Letter or Authority to Cancel the Assessment from the BIR.

On February 18, 2009, petitioner filed a "*Motion for Partial Reconsideration (with Prayer to Admit Attached Tax Amnesty Documents)*." On March 20, 2009, respondent filed her Comment praying for the dismissal of petitioner's *Motion for Partial Reconsideration* for lack of merit.

In a Resolution dated June 10, 2009, the Court partially granted petitioner's *Motion for Partial Reconsideration* and allowed it to present in evidence the tax amnesty documents, subject to the Court's final evaluation and/or appreciation of their purposes, materiality, relevance and probative values to the issues involved.

On June 30, 2009, respondent filed a *Motion for Reconsideration* on the aforementioned Resolution arguing that the Court must not consider evidence which has not been formally offered.

Instead of filing its comment on respondent's *Motion for Reconsideration*, petitioner filed a Manifestation dated August 4, 2009 stating that it does not need to file a comment considering that the Court, at the July 23, 2009 hearing, held that it will not act upon the said Motion and ordered the respondent to present his case in his Memorandum instead.

Petitioner filed its Supplement to Formal Offer of Evidence on August 24, 2009 and formally offered the tax amnesty documents before the Court, and in a Resolution dated October 12, 2009, the same were admitted by the Court.

On June 3, 2010, the BIR issued a *Termination Letter (Abatement Program Under RR 15-2006 as amended by RR 3-2007)*[4] pertaining to petitioner's 1997 deficiency expanded and final withholding taxes.

Petitioner filed its Second Supplemental Offer of Evidence on August 9, 2010 and formally offered in evidence the Termination Letter from the BIR. In a Resolution dated October 21, 2010, the Court admitted the same.

We resolve to grant petitioner's *Motion for Partial Reconsideration*.

As can be gleaned from the foregoing, all of the assessments issued by the BIR have now become moot given the availment by petitioner of the tax amnesty and abatement program of the BIR.

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[4] Exhibit "HH", Rollo, p. 1315.

Hence, petitioner's availment of the one-time administrative abatement, as evidenced by the Termination Letter, has effectively cancelled the appurtenant deficiency expanded and final withholding tax liabilities. Also, petitioner's availment of the tax amnesty and full compliance with the conditions set forth in R.A. 9480[5] made it immune from any alleged tax liability for taxable year 2005 and prior years. Moreover, in *Metropolitan Bank and Trust Company v. Commissioner of Internal Revenue*,[6] this Court ruled that if a taxpayer is duly qualified tax amnesty applicant and he complies with the requisites of the tax amnesty law, his alleged tax deficiencies for the taxable year 2005 and prior years are deemed extinguished.

WHEREFORE, premises considered, petitioner's **Motion for Partial Reconsideration (with Prayer to Admit Attached Tax Amnesty Documents)** dated February 18, 2009 is hereby **GRANTED** while respondent's **Motion for Reconsideration** dated June 30, 2009 is **DENIED** for lack of merit. Accordingly, in view of petitioner's availment of the administrative abatement and tax amnesty under R.A. 9480, the following Assessment Notices issued by respondent and received by petitioner on January 18, 2000, are hereby CANCELLED and SET ASIDE, to wit:

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[5] Republic Act (R.A.) No. 9480. "An Act Enhancing Revenue Administration and Collection by Granting An Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2005 and Prior Years. (2006)
[6] CTA EB Case No. 269, March 26, 2008.

1. Assessment Notice No. ST-INC-97-0107-2000 for deficiency income tax in the reduced amount of P69,543,470.72;

2. Assessment Notice No. ST-EWT-97-O109-2000 for deficiency expanded withholding tax in the reduced amount of P2,776,608.90; and

3. Assessment Notice No. ST-FWT-97-O110-2000 for deficiency final withholding tax in the reduced amount of P634,857.12.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

ERNESTO D. ACOSTA
Presiding Justice
Chairman, First Division