REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FORMER SECOND DIVISION

CONTINENTAL LEAF TOBACCO (PHIL.), INC., Petitioner,	**C.T.A. CASE NO. 7414**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** FEB 18 2010 4:21 p.m.

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AMENDED DECISION

UY, J.:

This resolves petitioner's "Manifestation and Motion for Reconsideration (Of The Decision Dated 27 November 2008)" filed on December 18, 2008[1], praying for the declaration of this Court's Decision promulgated on November 27, 2008[2] as moot and academic; or in the alternative, for the reconsideration of the said Decision due to its availment of the Tax Amnesty Program of the

[1] Docket, pp. 375-386
[2] Docket, pp. 355-368

government under Republic Act No. 9480 on December 26, 2007. The dispositive portion of the Decision reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **DISMISSED** for lack of merit. Accordingly, petitioner is hereby **ORDERED to PAY** respondent the amount of P15,487,047.06, representing deficiency excise taxes for the years 2002, 2003 and the months of January to March 2004, plus twenty percent (20%) delinquency interest *per annum*, pursuant to Section 249 of the NIRC of 1997, commencing from May 10, 2006 until full payment thereof.
>
> **SO ORDERED**."

No comment or opposition was filed thereto by respondent's counsel as directed during the hearing held on January 15, 2009 within the given period of ten (10) days from said date.[3] Subsequently in the Resolution dated February 19, 2009[4], the Court ordered petitioner to submit originals or certified true copies of the documentary exhibits attached to its Manifestation and Motion for Reconsideration.

On March 5, 2009 petitioner filed its "Compliance"[5] and submitted certified true copies of the required documents.

The issue is whether or not petitioner is qualified to avail of the benefits of the government's Tax Amnesty Program under R.A. No. 9480.

A careful and thorough consideration of the provisions of the R. A. No. 9480 and its Implementing Rules and Regulations (IRR), show that petitioner is not disqualified to avail of the benefits thereof.

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[3] Minutes of hearing held on January 15, 2009, Docket, p. 394.
[4] Docket, pp. 396-408
[5] Docket, pp. 398-408

Specifically, Section 8 of R.A. No. 9480 and Section 5, Rule II of its IRR[6], provide that the tax amnesty shall not extend to the following persons or cases:

1. Withholding agents with respect with their withholding tax liabilities;
2. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
3. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;
4. Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;
5. Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and VII of the Revised Penal Code; and
6. **Tax cases subject of final and executory judgment by the courts** *(Emphasis supplied)*.

Evidently, petitioner is not covered under any of the above enumerated exceptions. Petitioner timely availed of the benefits of the government's Tax Amnesty Program on December 26, 2007, or about eleven (11) months prior to the promulgation of the Decision rendered in this case. It also timely filed its "Manifestation and Motion for Reconsideration (Of The Decision Dated 27 November 2008)" on December 18, 2008, which is within the fifteen (15) day reglementary period[7] from receipt of said Decision on December 3, 2008. Hence, the Decision rendered herein has not become final and executory.

Now looking into the merits of petitioner's availment of the Tax Amnesty Program, We emphasize that a taxpayer desiring to avail of the benefits thereof

[6] Department of Finance Department Order No. 29-07, August 15, 2007.
[7] Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals.

must comply with the requirements specified under Section 2 of R.A. No. 9480 which provides:

> **"Sec. 2. *Availment of the Amnesty.*** – Any person, natural or juridical, who wishes to avail himself of the tax amnesty authorized and granted under this Act shall file with the Bureau of Internal Revenue (BIR) a notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005, in such form as may be prescribed in the implementing rules and regulations (IRR) of this Act, and pay the applicable amnesty tax within six months from the effectivity of the IRR." *(Underscoring Ours)*

In addition, under its IRR,[8] a taxpayer availing of the program must present in the original or in certified true copy the following documents:

> Forms to be submitted are:
> - Notice of Availment of Tax Amnesty
> - Statement of Assets, Liabilities and Networth (SALN)
> - Tax Amnesty Return (BIR Form No. 2116)
> - Payment Form (BIR Form No. 0617)

As mentioned earlier, petitioner attached certified true copies of the required documents to its "Compliance" filed on March 5, 2009 the following:

1. Notice of Availment of Tax Amnesty dated December 26, 2007[9];
2. Tax Amnesty Return (BIR Form No. 2116) dated December 26, 2007[10];
3. PNB BTR-BIR Payment Slip dated January 15, 2008[11];
4. Tax Amnesty Payment Form (BIR Form No. 0617) dated December 26, 2007[12]; and
5. Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005[13].

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[8] Supra.
[9] Docket, p. 402
[10] Docket, p. 403
[11] Docket, p. 404
[12] Docket, p. 405
[13] Docket, pp. 406-408

Having complied with the foregoing legal requirements, petitioner is8 entitled to the immunities and privileges granted under Section 6 of the R.A. 9480, to wit:

> "SECTION 6. *Immunities and Privileges*. – Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:
>
> (1) The taxpayer shall be immune from the payment of taxes, as well as addition thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.
>
> xxx xxx xxx"

These immunities and privileges have been affirmed by the Supreme Court in the case of ***Philippine Banking Corporation (now Global Business Bank, Inc.) vs. Commissioner of Internal Revenue*** [14], when it held that:

> "Records show that Metrobank, a qualified tax amnesty applicant, has duly complied with the requirements enumerated in RA 9480, as implemented by DO 29-07 and RMC 19-2008. **Considering that the completion of these requirements shall be deemed full compliance with the tax amnesty program, the law mandates that the taxpayer shall thereafter be immune from the payment of taxes, and additions thereto, as well as the appurtenant civil, criminal or administrative penalties under the NIRC of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years** *(Emphasis supplied)*."

Inasmuch as petitioner has fully complied with the prescribed requisites of R.A. No. 9480, and is deemed a duly qualified tax amnesty applicant, the tax

[14] G.R. No. 170574, January 30, 2009

deficiency assessment in the case at bench mentioned in respondent's Final Decision on Disputed Assessment dated April 5, 2006[15] is extinguished.

WHEREFORE, in light of the foregoing considerations, petitioner's Manifestation and Motion for Reconsideration (Of The Decision Dated 27 November 2008) is hereby **GRANTED**.

Accordingly, the Decision in the instant case promulgated on November 27, 2008, as well as respondent's Final Decision on Disputed Assessment dated April 5, 2006 are hereby **SET ASIDE** solely in view of petitioner's availment of the Tax Amnesty Program. This case is hereby deemed **CLOSED** and **TERMINATED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

[15] Docket, pp. 268 -271

ATTESTATION

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

ERNESTO D. ACOSTA
Presiding Justice