CTA Form No. 8

21-000192-0062

**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

**FIRST DIVISION**

**CTA CASE NO. 10522**

**KARGAMINE TOO, INC. ,**
Petitioner,

- versus -

**COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

**NOTICE OF JUDGMENT BASED ON COMPROMISE AGREEMENT**

**To:**

**OFFICE OF THE SOLICITOR GENERAL**
134 Amorsolo Street, Legazpi Village
Makati City

**ATTY. AYLEEN B. ALMIRA**
Bureau of Internal Revenue
Legal Division, Revenue Region No.5
9th Floor, BIR DPD & Executive Building
No. 140, Bo. Calaanan, Brgy.86, EDSA, Caloocan City

**HECHANOVA BUGAY VILCHEZ & ANDAYA-RACADIO**
G/F, Salustiana D. Ty Tower
104 Paseo De Roxas Street corner Perea Street
Legazpi Village, Makati City

***GREETINGS:***

You are hereby notified by these presents that on **March 12, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 13, 2025.**

**Atty. Margarette Y. Guzman**
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
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**FIRST DIVISION**

**KARGAMINE TOO, INC.,**
Petitioner,

- versus -

**COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

CTA CASE NO. **10522**

Members:

**DEL ROSARIO,** *P.J., Chairperson,*
**BACORRO-VILLENA,** *and*
**CUI-DAVID,** *JJ.*

Promulgated:
MAR 12 2025 3:40PM

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# JUDGMENT BASED ON COMPROMISE AGREEMENT

***BACORRO-VILLENA, J.:***

On 22 July 2024, the Court received a "Joint Motion for Judgment Based on Compromise Agreement"[1] (**Joint Motion**) from the parties, petitioner Kargamine Too, Inc. (**petitioner**) and respondent Commissioner of Internal Revenue (**respondent/CIR**), stating that respondent had accepted petitioner's offer of compromise based on doubtful validity. Consequently, petitioner paid the amount of ₱2,199,389.86, which is 40% of the basic deficiency value-added tax (VAT) assessment of ₱5,498,474.64 (as indicated in the Formal Letter of Demand[2] [**FLD**] of 26 August 2020).

The parties attached the following documents to their Joint Motion:

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1 Division Docket, pp. 316-318.
2 Division Docket, pp. 41-44.

| **Annex** | **Description** |
|---|---|
| A | Original computer printout of BIR Form No. 0605 (Payment Form) for VAT in the amount of ₱2,199,389.86 filed through electronic filing and payment system (**eFPS**) on 20 March 2024.[3] |
| B | Original computer printout of the eFPS Payment Confirmation page indicating successful payment transaction from BPI.[4] |
| C | Original Judicial Compromise Agreement[5] signed by Atty. Yasmin A. Andaya-Racadio, as petitioner's authorized representative[6], and by respondent CIR, through Commissioner Romeo D. Lumagui, Jr. (**Commissioner Lumagui**). The Judicial Compromise Agreement was notarized on 18 July 2024. |
| D | Photocopy of Certificate of Availment (Compromise Settlement) dated 12 July 2024.[7] |
| D-1 | Photocopy of the signature page of the National Evaluation Board (**NEB**) which reflected the approval of the NEB members.[8] |

In observance of the Court's Resolution dated 04 September 2024[9], on 20 September 2024, petitioner filed a compliance[10] and submitted the certified true copy (**CTC**) of the Certificate of Availment (Compromise Settlement) (**CA**) dated 12 July 2024[11], together with the CTC of the signature page containing the NEB's approval of the paid compromise amount of ₱2,199,389.86.[12] However, petitioner failed to file a softcopy of the said compliance in violation of *En Banc* Resolution No. 8-2024.[13] Thus, on 07 November 2024, the Court directed petitioner to make an email transmittal of the same within 24 hours from notice thereof.[14]

On 30 January 2025, petitioner filed a "Motion to Admit Compliance To the Resolution dated November 7, 2024"[15] where it averred that it failed to receive the said resolution until the present filing of its motion. However, it was only notified of such directive when it checked the instant case's status through the court's website. Hence, on

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3 Id., p. 320.
4 Id.
5 Id., pp. 321-324.
6 See Secretary's Certificate dated 24 March 2021, id., pp. 21-22.
7 Id., p. 325.
8 Id., p. 326.
9 Id., pp. 330-332.
10 See Compliance to the Resolution dated September 4, 2024, id., pp. 346-349.
11 Id., p. 348.
12 Id., p. 349.
13 Guidelines on Submission of Electronic Copies of Pleadings and Other Court Submissions Before the Court of Tax Appeals Pursuant to A.M. No. 10-3-7-SC and A.M. No. 11-9-4-SC.
14 See Minute Resolution dated 07 November 2024, Division Docket, pp. 355-356.
15 Id., pp. 360-362.

the same date, it made the email transmittal[16] of the Compliance of 04 September 2024.[17]

With the above submission, We set aside the Resolution of 10 February 2025 which ruled that the "Compliance to the Resolution dated September 4, 2024" is deemed not filed.[18] Accordingly, We shall proceed to rule on the parties Joint Motion (for judgment based on compromise agreement).

**We resolve.**

Under A.M. No. 11-1-05-SC-PHILJA or otherwise known as the Interim Guidelines for Implementing Mediation in the Court of Tax Appeals (**Interim Guidelines**), upon approval of the compromise agreement, the Court shall render judgment based thereon.[19] Moreover, the subject Judicial Compromise Agreement likewise states that the same is subject to the approval of this Court[20]; hence, this Judgment Based on Compromise Agreement (**JBCA**).

The subject Judicial Compromise Agreement[21] reads as follows:

...

**JUDICIAL COMPROMISE AGREEMENT**

**KNOW ALL MEN BY THESE PRESENTS:**

This **JUDICIAL COMPROMISE AGREEMENT** ("Agreement"), made and executed, by and between:

**KARGAMINE TOO, INC.** ("TAXPAYER"), a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office at G-2 Las Buenas, Bldg. #37 Ind'1. Avenue, Potrero, Malabon City, duly represented by **ATTY. YASMIN A. ANDAYA-RACADIO**;

-and-

16 See Annex "B" of the Motion to Admit Compliance to the Resolution dated November 7, 2024, id., p. 370.
17 Supra at note 10.
18 Id., pp. 375-376.
19 See Part IX(A) of the Interim Guidelines.
20 See Section 3 of the Judicial Compromise Agreement, Division Docket, p. 322.
21 Supra at note 5.

The **BUREAU OF INTERNAL REVENUE** ("BIR"), with principal office at Bureau of Internal Revenue, National Office Building, Agham Road, Diliman, Quezon City, represented by the Commissioner of Internal Revenue, **ROMEO D. LUMAGUI, JR.** (collectively, the "PARTIES")

-Witnesseth That-

**WHEREAS**, the BIR issued the **TAXPAYER** a Formal Letter of Demand ("**FLD**") dated August 20, 2020 for taxable period covering January 1, 2018 to June 30, 2018 assessing the **TAXPAYER** basic deficiency taxes amounting to **Five Million Four Hundred Ninety-Eight [Thousand] Four Hundred Seventy-Four & 64/100 Pesos (PhP5,498,474.64)**;

**WHEREAS**, the **TAXPAYER** instituted an action against the BIR entitled "**Kargamine Too, Inc. vs. Commissioner of Internal Revenue**" docketed as CTA Case No. 10522, pending before the Honorable First Division of the Court of Tax Appeals ("**CTA**"), seeking the nullity of the deficiency tax assessments for taxable period covering January 1, 2018 to June 30, 2018;

**WHEREAS**, on August 17, 2022, the **TAXPAYER** has submitted to the **BIR** an **Offer of Compromise Settlement** on grounds of doubtful validity for the alleged deficiency tax assessment contained in the FLD and has paid forty percent (40%) of the basic tax deficiency;

**WHEREAS**, the **BIR** thus believes that a judicial compromise to allow immediate tax collection and also put an end to litigation as provided in the Civil Code of the Philippines, serves the interest of the Government;

**WHEREAS**, the **PARTIES** have agreed to enter into an amicable 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**, the Honorable CTA has issued rulings allowing judicial compromise similar to the instant case;

**WHEREAS**, the **PARTIES**, for the purpose of avoiding and putting an end to a protracted, expensive and mutually prejudicial litigation, 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. Judicial Compromise Amount.** In order to settle the above-mentioned case, the **TAXPAYER** has offered, and in fact paid, and the **BIR** has approved and accepted the total payment of **Two Million One [Hundred] Ninety-Nine Thousand Three [Hundred] Eighty-Nine and 86/000 (PhP2,199,38[9].86)** ["Judicial Compromise Amount"].

**Section 2. Submission to the Honorable CTA.** This Agreement fully signed by the **PARTIES** shall be submitted for the approval of the Honorable CTA in CTA Case No. 10522. The **PARTIES** undertake to perform any and all acts, and submit any and all documents required by the Honorable CTA to be able to render a Judgment by Compromise Agreement in the said case.

**Section 3. Effectivity of the Agreement.** This Agreement shall take effect and bind the **PARTIES** upon approval by the Honorable CTA. The Agreement shall thereafter remain in force and effect until completion and fulfilment of the covenants and undertaking of the **PARTIES** hereto.

**Section 4. Deliverables of the PARTIES upon approval by the Honorable CTA of this Agreement by the Honorable CTA.** Upon final approval by the Honorable CTA of this Agreement, the BIR undertakes to execute and deliver to the **TAXPAYER** any and all documents as may be required to effectively and fully implement the provisions of this Agreement, withdrawing and cancelling the FLD and/or Final Assessment Notice ("FAN") dated August 20, 2020.

**Section 5. Authority to Enter Compromise Agreement.** The BIR through Commissioner Romeo D. Lumagui, Jr. warrants that he has the necessary authority and capacity under the law to enter, sign, and execute this Agreement, and to deliver its implementing documents upon approval of the Honorable CTA.

The **TAXPAYER** warrants that Atty. Yasmin A. Andaya-Racadio, is duly authorized by the Board of Directors of the **TAXPAYER** and has full legal capacity to enter, sign, and execute this Agreement, and to deliver payment of the above-agreed additional amount.

**Section 6. Full and Final Settlement.** This **Agreement** is executed by the **PARTIES** for the purpose of amicably settling and ending CTA Case 10522. Upon approval by the Honorable CTA, the BIR recognizes the full satisfaction of the supposed tax liability of the **TAXPAYER** as set forth in the FLD/FAN dated August 20, 2020 for the taxable period covering January 1, 2018 to June 30, 2018 which is the subject of CTA Case No. 10522 and acknowledges that the **TAXPAYER** no longer has any tax liability whatsoever based upon, arising from or in connection with the said particular subject to CTA Case No. 10522.

**Section 7. Disapproval of this Agreement by the Honorable CTA.** In the event that this Agreement is disapproved by the Honorable CTA, the **PARTIES** agree to a curing period of sixty 60) days from receipt of the Order/Resolution disapproving this Agreement. During such curing period, the **PARTIES** mutually agree to perform any and all acts necessary to rectify or correct the deficiency, defect or imperfection which caused its disapproval, and re-submit the rectified or corrected Agreement for approval of the Honorable CTA. However, in case the deficiency, defect or imperfection is not or cannot be rectified or corrected within the said curing period, or still not approved by the Honorable CTA after it is rectified or corrected by the parties:

1) The amount already paid by the **TAXPAYER** to the **BIR** shall be deemed a tax credit which may be applied against internal revenue taxes for which the **TAXPAYER** may be directly liable, as allowed under existing rules and regulations; and

2) The proceedings of CTA Case No. 10522 shall continue and the discussions pursuant to the disapproved Agreement cannot be used by the **PARTIES** in said proceeding unless consent of the other party be obtained.

**Section 8. No Admission of Liability.** The execution of this Agreement shall not constitute or be interpreted in any way as an admission or acknowledgment of error or liability by the **PARTIES**.

**Section 9. Non-Performance**. The **PARTIES** agree that the failure of any **PARTY** to comply with any of the terms and conditions of this Agreement shall entitle the aggrieved **PARTY** to file an appropriate motion with the Honorable CTA for the immediate implementation and execution of the terms and conditions of this Agreement or the judgement or order of the Honorable CTA approving the same.

**Section 10. Signatures and Counterparts.** This Agreement may be signed in counterparts, each of which when executed and delivered shall constitute a duplicate original, but all of which shall be taken together as a single instrument. Until and unless each party has received a counterpart hereof signed by the other party hereto, the Agreement shall have no effect and no party shall have any right or obligation hereunder.

**IN WITNESS WHEREOF**, the **PARTIES** hereto have mutually and voluntarily agreed to the foregoing stipulations and have hereunto signed these presents at the date and place indicated above.

| KARGAMINE TOO, INC. | BUREAU OF INTERNAL REVENUE |
|---|---|
| By: | By: |
| Signed<br>ATTY. YASMIN A. ANDAYA-RACADIO | Signed<br>ROMEO D. LUMAGUI, JR.<br>Commissioner<br>009257 |

Witnesses:

_______________________ Signed

...

**We resolve.**

In *Commissioner of Internal Revenue v. Iconic Beverages, Inc.*[22], the Supreme Court held that respondent's authority to compromise is purely discretionary, and the courts cannot interfere with the exercise of discretionary functions, absent grave abuse of discretion, to wit:

> ...
>
> The power of the CIR to enter into compromise agreements for deficiency taxes is explicit in Section 204 (A) of the Tax Code, as amended. The CIR may compromise an assessment when a reasonable doubt as to the validity of the claim against the taxpayer exists, as in this case, or the financial position of the taxpayer demonstrates a clear inability to pay the tax. It is settled that the authority of the CIR to compromise is purely discretionary, and the courts cannot interfere with his exercise of discretionary functions, absent grave abuse of discretion. Here, no grave abuse of discretion exists.
>
> In this regard, a compromise agreement has the effect of *res judicata* on the parties. Compromises are generally to be favored and those entered into in good faith cannot be set aside, except when there is mistake, fraud, violence, intimidation, undue influence, or falsity of documents. None of these exceptions obtain in the present case.
>
> ...

[22] G.R. Nos. 240651 & 240665 (Notice of Resolution), 06 July 2021; Citations omitted and italics in the original text.

As to the required approval of the Compromise Agreement, Section 6 of Revenue Regulation (**RR**) No. 30-2002[23], as amended by RR No. 9-2013[24], states:

> ...
> **SEC. 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 majority of all the members of the** NEB 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 concurrence of the Commissioner.
>
> xxx xxx xxx
>
> <u>The compromise offer shall be paid by the taxpayer upon filing of the application for compromise settlement. No application for compromise settlement shall be processed without the full settlement of the offered amount. In case of disapproval of the application for compromise settlement, the amount paid upon filing of the aforesaid application shall be deducted from the total outstanding tax liabilities.</u>[25]
>
> xxx xxx xxx
>
> ...

Furthermore, Revenue Memorandum Order (**RMO**) No. 3-2017[26] likewise provides:

> ...
> **All approved applications for compromise settlement and/or abatement of penalties shall be issued Certificate of Availment (CA)** following the prescribed format as per attached Annexes "A" and "B", while denied applications shall be issued Notice of Denial (ND) following prescribed format as per attached annexes "C" and "D".[27]
> ...

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23 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.

24 Amending Certain Provisions of Revenue Regulations No. 30-2002.

25 Emphasis and underscoring in the original text.

26 Amending Further the Prescribed Format for the Certificate of Availment/Approval and Notice of Denial Relative to Application for Compromise Settlement and/or Abatement of Penalties Pursuant to Section 204 of the Tax Code, as Amended.

27 Emphasis supplied.

Consequently, a compromise settlement of any tax liability where the basic tax involved exceeds ₱1 million, such as in this case, must bear the approval of the majority of all NEB members. Such approval shall be evidenced by a CA following the prescribed format.

The records show that the parties were able to submit the CTC of the CA and its signature page (showing the unanimous approval of the NEB members).[28]

Furthermore, the parties' Judicial Compromise Agreement likewise reveals their true intention to settle 40% of the basic deficiency VAT assessed in the amount of ₱5,498,474.64[29]; thus, paying a total of ₱2,199,389.86 on 20 March 2024.

After a careful scrutiny of the parties' documents submitted in support of the subject Judicial Compromise Agreement[30], the Court finds the same in order and in compliance with the established laws, rules and regulations.

In *Felipe O. Magbanua, et al. v. Rizalino Uy*[31], the Supreme Court ruled as follows:

> ...
>
> A compromise agreement is a contract whereby the parties make reciprocal concessions in order to resolve their differences and thus avoid or put an end to a lawsuit. They adjust their difficulties in the manner they have agreed upon, disregarding the possible gain in litigation and keeping in mind that such gain is balanced by the danger of losing. Verily, the compromise may be either extrajudicial (to prevent litigation) or judicial (to end a litigation).
>
> A compromise must not be contrary to law, morals, good customs and public policy; and must have been freely and intelligently executed by and between the parties. To have the force of law between the parties, it must comply with the requisites and principles of contracts. Upon the parties, it has the effect and the authority of *res judicata*, once entered into.

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[28] Supra at notes 11 and 12.
[29] Amount lifted from the Formal Letter of Demand of 26 August 2020, supra at note 2.
[30] Supra at note 5.
[31] G.R. No. 161003, 06 May 2005; Citations omitted and italics in the original text.

> When a compromise agreement is given judicial approval, it becomes more than a contract binding upon the parties. Having been sanctioned by the court, it is entered as a determination of a controversy and has the force and effect of a judgment. It is immediately executory and not appealable, except for vices of consent or forgery. The nonfulfillment of its terms and conditions justifies the issuance of a writ of execution; in such an instance, execution becomes a ministerial duty of the court.
>
> ...
>
> The issue involving the validity of a compromise agreement notwithstanding a final judgment is not novel. *Jesalva v. Bautista* upheld a compromise agreement that covered cases pending trial, on appeal, and with final judgment. The Court noted that Article 2040 impliedly allowed such agreements; there was no limitation as to when these should be entered into. *Palanca v. Court of Industrial Relations* sustained a compromise agreement, notwithstanding a final judgment in which only the amount of back wages was left to be determined. The Court found no evidence of fraud or of any showing that the agreement was contrary to law, morals, good customs, public order, or public policy.
>
> *Gatchalian v. Arlegui* upheld the right to compromise prior to the execution of a final judgment. The Court ruled that the final judgment had been novated and superseded by a compromise agreement. Also, *Northern Lines, Inc. v. Court of Tax Appeals* recognized the right to compromise final and executory judgments, as long as such right was exercised by the proper party litigants.
>
> ...
>
> There is no justification to disallow a compromise agreement, solely because it was entered into after final judgment. The validity of the agreement is determined by compliance with the requisites and principles of contracts, not by when it was entered into. As provided by the law on contracts, a valid compromise must have the following elements: (1) the consent of the parties to the compromise, (2) an object certain that is the subject matter of the compromise, and (3) the cause of the obligation that is established.
>
> ...

**WHEREFORE**, in view of the foregoing, the Joint Motion for Judgment Based on Compromise Agreement is **GRANTED**. Accordingly, petitioner Kargamine Too, Inc. and respondent Commissioner of Internal Revenue's Judicial Compromise Agreement is hereby **APPROVED.** Having been impressed with judicial imprimatur, the parties are hereby **ENJOINED** to faithfully comply with all the terms and conditions of the aforesaid Compromise Agreement (which constitutes the Court's judgment in the case at bar).

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

**SO ORDERED.**

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

**LANEE S. CUI-DAVID**
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Judgment Based on Compromise Agreement 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