REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

PHILIPPINE ALUMINUM WHEELS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 7817
Members:

Acosta, *Chairperson*
Uy, *and*
Fabon-Victorino, *JJ.*

Promulgated:
NOV 12 2012 ; 1:00 p.m.

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DECISION

UY, *J.*:

The instant Petition for Review was filed on August 1, 2008 by petitioner, Philippine Aluminum Wheels Inc., against respondent, Commissioner of Internal Revenue, pursuant to Section 3(a)(1) of Rule 4 in relation to Section 2 of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), seeking to reverse and set aside the Decision of respondent dated July 16, 2008 which found: (a) petitioner liable for deficiency Income Tax, Value Added Tax, Expanded Withholding Tax and Documentary Stamp Tax in the total amount of P29,845,194.52 for taxable year 2001 for petitioner's failure to assail the Final Decision on Disputed Assessment (FDDA) dated November 8, 2006; and (b) petitioner's availment for tax amnesty under Republic Act (RA) No. 9480 without effect on the subject assessment as the FDDA has allegedly become final and executory prior to tax amnesty availment.

THE FACTS

Culled from the records of this case, the factual antecedents are as follows:

Petitioner Philippine Aluminum Wheels, Inc. is a corporation duly organized and existing under Philippine laws, with business address at Severina Diamond Industrial Complex, Km. 16 West Service Road, South Superhighway, Parañaque City. Respondent, on the other hand, is the Commissioner of the Bureau of Internal Revenue (BIR), with office address at BIR National Office Bldg., Agham Road, Diliman, Quezon City.[1]

On December 16, 2003, respondent, through Deputy Commissioner Estelita C. Aguirre (Officer-in-charge, Large Taxpayers Service), issued the Preliminary Assessment Notice (PAN) against petitioner, covering the alleged deficiency taxes for taxable year 2001 under Letter of Authority No. 00003309 dated November 19, 2002.[2]

On March 28, 2004, the BIR issued the Final Assessment Notice (FAN) against petitioner, indicating an assessment for alleged total tax deficiency of P32,100,613.42 for taxable year 2001.[3]

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[1] Pars. 1 and 2, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), Docket, p. 188.
[2] Par. 3, Admitted Facts, JSFI, Docket, pp. 188-189.
[3] Par. 5, Admitted Facts, JSFI, Docket, p. 189.

On July 19, 2007, petitioner filed with the BIR an application for abatement of its tax liabilities covering taxable year 2001 under Revenue Regulations (RR) No. 13-2007.[4]

In the letter dated September 12, 2007, the BIR, through Elvira R. Vera (Head Revenue Executive Assistant, LTS-Excise Large Taxpayers), denied petitioner's application for tax abatement on the ground that the FDDA was already issued by the BIR, allegedly served through registered mail on April 12, 2007, and that the same had become final, executory and demandable for failure of petitioner to appeal the FDDA to this Court.[5]

In its letter dated September 19, 2007, petitioner wrote the BIR in connection with its alleged tax deficiency for the year 2001 in the amount of P29,845,194.52. Petitioner informed the BIR in the said letter that it has paid its tax deficiency on withholding tax amounting to P736,726.86 through the Electronic Filing and Payment System (EFPS) of the BIR and that it is also in the process of applying and/or availing of the tax amnesty as implemented under Revenue Memorandum Circular (RMC) No. 55-2007 to finally settle and put to rest the matter of deficiency tax assessments amounting to P29,108,467.63.[6]

Subsequently, in the letter dated January 29, 2008, the BIR denied petitioner's request and informed petitioner that the FDDA has been sent to

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[4] Par. 7, Admitted Facts, JSFI, Docket, p. 189.
[5] Par. 8, Admitted Facts, JSFI, Docket, p. 189.
[6] Par. 10, Admitted Facts, JSFI, Docket, pp. 189-190.

the latter through registered mail on April 12, 2007, and that the same has become final, executory and demandable.[7]

Finally, in the letter dated July 16, 2008, the BIR insisted that the FDDA has become final and executory due to petitioner's alleged failure to appeal the same within thirty (30) days from receipt thereof, and informed petitioner that its availment of the amnesty on September 21, 2007 under R.A. No. 9480 has no effect on the assessment due to the finality of the FDDA prior to petitioner's tax amnesty availment, considering that the assessments are already accounts receivables of the BIR as clarified under the Question and Answer of Revenue Memorandum Circular (RMC) No. 69-2007. In addition, the amount of deficiency tax assessments that BIR computed to have become due and payable has increased from P29,108,467.63 (as stated in the previous letter of BIR) to P29,108,767.63, or a difference of P300.00.[8]

On August 1, 2008, petitioner filed the instant Petition for Review before this Court assailing the alleged Decision of respondent dated July 16, 2008.

On October 20, 2008, respondent filed her Answer[9] praying for the dismissal of the Petition for Review, and interposed the following Special and Affirmative Defenses:

> "6. Petitioner Philippine Aluminum Wheels Incorporated (PAWI) is liable to pay deficiency Income Tax, Value-Added Tax

[7] Par. 11, Admitted Facts, JSFI, Docket, p. 190.
[8] Par. 12, Admitted Facts, JSFI, Docket, p. 190.
[9] Docket, pp. 101-122.

and Documentary Stamp Tax for taxable year 2001 in the total amount of Twenty Nine Million One Hundred Eight Thousand Seven Hundred Sixty Seven and 63/100 (P29,108,767.63) in view of the following reasons:

6.1 Petitioner failed to appeal with this Honorable Court within thirty (30) days from receipt of the Final Decision on Disputed Assessment (FDDA) dated November 8, 2006 which was sent and delivered to petitioner through registered mail on April 12, 2007.

> Section 228 of the National Internal Revenue Code (NIRC) clearly states that:
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> 'If the protest is denied in whole or in part, or is not acted upon within One Hundred Eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of said decision, or from the lapse of the One Hundred Eighty (180)-day period; otherwise, the decision shall become <u>final</u>, <u>executory</u> and <u>demandable</u>.'

Corollary thereto, Section 3.1.5 of Revenue Regulations (RR) No. 12-99 dated September 6, 1999 entitled 'Implementing the Provisions of the National Internal Revenue Code (NIRC) of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty' provides:

> The taxpayer or his duly authorized representative may protest administratively against the aforesaid formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof. If there are several issues involved in the formal letter of demand and assessment notice but the taxpayer only disputes or protests against the validity of some of the issues raised, the taxpayer shall be required to pay the deficiency tax or taxes attributable to the undisputed issues, in which case, a collection letter

shall be issued to the taxpayer calling for payment of the said deficiency tax, inclusive of the applicable surcharge and/or interest. No action shall be taken on the taxpayer's disputed issues until the taxpayer has paid the deficiency tax or taxes attributable to the said undisputed issues. The prescriptive period for assessment or collection of the tax or taxes attributable to the dispute issues shall be suspended.

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The taxpayer shall submit the required documents in support of his protest within sixty (60) days from date of filing of his letter of protest, otherwise, the assessment shall become final, executory and demandable. The phrase 'submit the required documents' includes submission or presentation of the pertinent documents for scrutiny and evaluation by the Revenue Officer conducting the audit. The said Revenue officer shall state this fact in his report of investigation.

If the taxpayer fails to file a valid protest against the formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable.

If the protest is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable.

In general, if the protest is denied, in whole or in part, by the Commissioner or his duly authorized representative, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable: Provided, however, that if the taxpayer elevates his protest to the

Commissioner within thirty (30) days from date or receipt of the final decision of the Commissioner's duly authorized representative, the latter's decision shall not be considered final, executory or demandable, in which case, the protest shall be decided by the Commissioner.

If the Commissioner or his duly authorized representative fails to act on the taxpayer's protest within One Hundred Eighty (180) days from the date of submission, by the taxpayer, of the required documents in support of his protest, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from the lapse of the said 180-day period, otherwise, the assessment shall become final, executory and demandable.

6.2 An assessment is deemed made only when respondent releases, mails and sends such notice to petitioner. In the absence of any proof of irregularities in the performance of official duties when the assessment notice was released and mailed to petitioner and the original was not returned to respondent, the presumption is that the taxpayer received it.

In relation thereto, Section 3.17 of RR 12-99 provides:

'**Section 3.1.7. Constructive Service**. – If the notice to the taxpayer herein required is served by registered mail, and no response is received from the taxpayer within the prescribed period from date of posting thereof in the mail, the same shall be considered actually or constructively received by the taxpayer. If the same is personally served on the taxpayer or his duly authorized representative who, however, refused to acknowledge receipt thereof, the same shall be constructively served to the taxpayer. Constructive service thereof shall be considered effected by leaving the same in the premises of the taxpayer and this fact or constructive services is attested to, witnessed and signed by at least two (2) revenue officers other than the revenue officer who constructively served the same. The revenue officer who constructively served the same shall make a written report of this matter which shall form part of the docket of the case.' (Underscoring supplied)

In addition, Section 10 Rule 13 of the Revised Rules of Court (should be 1997 Rules of Civil Procedure) provides:

> '**Sec. 10 Completeness of service.** Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of five (5) days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee; but if he fails to claim his mail from the post office within five (5) days from the date of first notice of the post master, service shall take effect at the expiration of such time.'

6.3 Petitioner vehemently and consistently denies having received the official copy of the FDDA sent and delivered to it by respondent through registered mail. In fact, a letter (Vide: Annex 'A' of the petition) was sent to respondent dated December 12, 2007 and addressed to Ms. Elvira H. Vera, Head Revenue Executive Assistant, LTS-Excise Large Taxpayers explaining that petitioner made a careful scrutiny of its records and in-house investigations were conducted. On the basis of its own investigation, it alleged that no such decision (FDDA) has been received by petitioner. It likewise states that petitioner availed of the Tax Amnesty Program (TAP) of respondent and no longer pursuing its application for abatement.

Since the burden of proof is on the part of respondent to establish that indeed petitioner received the assessment notice in the ordinary course of mail, respondent likewise made thorough investigation to determine exactly how said assessment notice reached petitioner. In light of the foregoing, the following facts were revealed:

1. The FDDA dated November 8, 2006 was sent through registered mail on April 12, 2007 on a '<u>NO</u> return card' basis by Ronaldo C. Camba, one of the handling Revenue Officers for the case at hand, as evidenced by Registry Receipt No. 1921. Said FDDA was mailed

at the BIR Post Office (BIRPO) located on Agham Road, Barangay Pinyahan, Diliman, Quezon City.

2. On the basis of the records of said BIR Post Office, it was established that the registered mail was likewise posted on April 12, 2007 and was dispatched on the same date under BIR Bill Number 28 to Paranaque Post Office identified under Column 1, Line 3 and labeled BIRPO to MMDC Mixes, Reg. Number 48 with seal number 419713. A copy of the certification dated September 11, 2008 and signed by Josefina M. Hora, the Postmaster for BIRPO Diliman, Quezon City, detailing the aforementioned relevant information is hereto attached as Annex 'B' and made an integral part hereof.

3. On the basis of the records of Paranaque Central Post Office, Metro Manila, a certification dated September 15, 2008 was issued by Magno B. Lejos, Postmaster VI, stating that the registered mail in question was delivered to petitioner and actually received by a certain 'S/G R. Sebastian' on April 17, 2007 or five (5) days after said registered mail was sent by Ronaldo Camba. A copy of said certification is hereto attached as Annex 'C' and made an integral part hereof.

4. To substantiate respondent's claim that the FDDA was actually received by petitioner, a certified true copy of the Official Record Book of the Paranaque Central Post Office dated September 16, 2007 and signed by Marites G. Agustin, (PT III, Administrative Staff) who is in charge of the safekeeping of said record book, is hereto attached as Annex 'D' and made an integral part hereof.

5. The abovementioned record book details the transactions that actually transpired on August 17, 2007. Paragraph 16 of said record book reveals the data '15 – Registered Mail No. 1921 from Quezon City, sent to PAWI and received by R. Sebastian'. Said R. Sebastian signed the document to prove that he actually received the registered mail in behalf of petitioner.

6. According to Roberto Mejica, the current letter carrier assigned for petitioner and those residents/occupants within West Service Road, South Superhighway, Paranaque City, S/G R. Sebastian is the security guard posted at the gate of petitioner. The former letter carrier assigned within that area and who actually delivered the questioned registered mail to petitioner has allegedly retired from service.

7. To date, R. Sebastian is still connected with petitioner as evidenced by his actual receipt of Social Security Service (SSS) checks on March 17, 2008 for Jesus N. Rom Jr., and on September 8, 2008 for Joy U. Balverde and Nonato T. Tacda, who may all be employees of petitioner. Said transactions is contained in the SPECIAL DELIVERY MATTER book (Form No. 451 [Revised]) being kept by Roberto Mejica. A certified true copy of the Special Delivery Matter Book dated September 16, 2008 by Roberto Mejica which shows R. Sebastian actual receipts of said SSS documents is hereto attached as Annexes 'E' and 'E-1' and made an integral part hereof.

8. One of the documents submitted by petitioner relative to its motion for reconsideration/reinvestigation of the Final Assessment Notice (FAN) dated March 28, 2004 is the Withholding Tax Expanded computation on Outside Services/Security and Janitorial Services which include Payment for SUPERB SECURITY and INVESTIGATION AGENCY where the amount of withholding tax for taxable year 2001 is Eight Thousand Five Hundred Twenty Two Pesos and 70/100 (P8522.70). Copy of the computation relative to Withholding Tax-Expanded for Outside Services/Security as well as the Alpha List of Suppliers Subject to Expanded Withholding Tax for Year 2001 is hereto attached as Annex 'F' and 'F-1', respectively and made an integral part hereof.

In ***G.R. No. 120972 entitled Sps. Jose Aguilar, et al. vs. Court of Appeals, et al dated July 19, 1999***, the Supreme Court held:

> 'The general rule is that service by registered mail is complete upon actual receipt thereof by the addressee. The exception is where the addressee does not claim his mail within five (5) days from the date of the first notice of the postmaster, in which case the service takes effect upon the expiration of such period.
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> Inasmuch as the exception only refers to constructive and not actual service, such exception must be applied upon conclusive proof that a first notice was duly sent by the postmaster to the addressee. Not only is it required that notice of the registered mail be sent but that it should also be delivered to and received by the addressee. Notably, the presumption that official duty has been regularly performed is not applicable in the situation. It is incumbent upon a party who relies on constructive service or who contends that his adversary was served with a copy of a final order or judgment upon the expiration of five days from the first notice of registered mail sent by the postmaster to prove that the first notice was sent and delivered to the addressee.
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> The best evidence to prove that notice was sent would be a certification from the postmaster, who should certify not only that the notice was issued or sent but also as to how, when and to whom the delivery thereof was made. The mailman may also testify that the notice was actually delivered.' (Underscoring supplied.)

Assuming without conceding, that petitioner did not receive its official copy of the FDDA, still it was informed of the existence of the final assessment made by respondent against it. A collection letter dated June 1, 2007 from the LT-Collection and Enforcement Division (LTCED) which was signed by Nestor S. Valeroso, OIC-Asst. Commissioner Large Taxpayers Service was likewise send to petitioner on June 19, 2007 under Registry Receipt Number 2781 informing petitioner again of its deficiency tax for taxable year 2001 in the total amount of P28,845,194.52, the amount of P736,426.89 representing Expanded Withholding Tax is included in said amount *[However,* *it is no longer subject of dispute because petitioner already paid said expanded withholding tax].* This (is) a reiteration of the amount of its tax deficiencies that is embodied in FDDA and a request to petitioner to pay its tax deficiency within (10) days from receipt thereof to avoid accumulation of interest and surcharges. A copy of said letter is hereto attached as Annex 'G' and made an integral part hereof. Said collection letter was never disputed by petitioner. In fact, it was made as one of the attachments included in Annex 'I' of the petition for review filed by petitioner before this Honorable Court.

Based on the foregoing, since petitioner had actual receipt of FDDA on April 17, 2007, it has thirty (30) days from receipt thereof or until May 17, 2007 within which to elevate the case to this Honorable Court. However, it was only on August 1, 2008 or after the lapse of almost one year and four (4) months that petitioner took the time to perfect its appeal. Consequently, the assessment against petitioner was already final, executory and demandable at the time it was elevated to this Honorable Court. Petitioner was given due time to appeal the FDDA within the reglementary period prescribed by law. However, it slept on its right and failed to controvert and contest the correctness as well as the validity of the assessment of respondent against petitioner.

Since petitioner failed to pay its deficiency taxes for taxable year 2001, respondent has no other option but to declare its deficiency taxes as 'Delinquent Account/Accounts Receivables considered as assets of the BIR/Government'.

6.4 In a letter dated September 19, 2007 (Vide: Annex 'H' of the petition) and addressed to Elvira R. Vera, Head Revenue Executive Assistant (HREA) for LTS-Excise Large Taxpayers, petitioner filed an application for Tax Immunity under the Tax Amnesty Act of 2007'.

Section 5 Rule II of Revenue Memorandum Circular No. 55-2007 dated August 21, 2007 entitled 'Implementing Rules and Regulations (IRR) of Republic Act 9480 otherwise known as 'Tax Amnesty Act of 2007' states:

> 'Section 5 – The tax amnesty shall not extend to the following persons or cases existing as of the effectivity of RA 9480:

1. Withholding agents with respect to 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 wealth or unlawfully acquired wealth, revenue or income 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 case filed in court or in the Department of Justice for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended;
6. Those with pending criminal case filed in court for felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapter III and IV of Title VII of the Revised Penal Code; and
7. Tax cases subject of final and executory judgment by the courts.

In relation thereto, 'A Basic Guideline on the Tax Amnesty Act of 2007' was published in major newspapers such as the Philippine Daily Inquirer on February 6, 2008 and Manila Bulletin on February 8, 2008. This was circularized under Revenue Memorandum Circular No. 19-2008 dated February 22, 2008 entitled 'Circularizing the Full Text of 'A Basic Guideline on the Tax Amnesty Act of 2007' for Taxpayers Who Wish to Avail of the Tax Amnesty Pursuant to Republic Act No. 9480 (Tax Amnesty Act of 2007)'. It listed down in detail the different kinds of taxpayers who may not avail of the Tax Amnesty Program. The enumeration includes the following:

1. Withholding agents with respect to their withholding tax liabilities.

2. Those with pending cases:
    - Under the jurisdiction of the PCGG

- Involving violations of the Anti-Graft and Corrupt Practices Act
- Involving violations of the Anti-Money Laundering Law
- For tax evasion and other criminal offenses under the NIRC and/or the Revised Penal Code (RPC)
- Issues and cases which were ruled by any court (even without finality) in favor of the BIR prior to amnesty availment of the taxpayer. (e.g. Taxpayers who have failed to observe or follow BOI and/or PEZA rules on entitlement to Income Tax Holiday Incentives or other incentives)
- Cases involving issues ruled with finality by the Supreme Court prior to the effectivity of RA 9480 (e.g. DST on special Savings Account)
- Taxes passed-on and collected from customers for remittance to the BIR
- Delinquent Accounts/Accounts Receivables considered as assets by the BIR/Government, including self-assessed tax.'

In addition thereto, for the purpose of clarifying certain issues relative to the availment of benefits of the Tax Amnesty Program (TAP), RMC No. 69-2007 dated November 5, 2007 was issued in Question and Answer format whereby corresponding resolutions were provided relative to some of the recurring questions raised during the fora and symposia with the private sector. Said RMC states in part:

'Q.4. Does availment of the TAP have an effect on assessments against the taxpayer/availer where such assessments have become final and executory prior to said availments?

A.4. No. Amnesty availment will not have an effect on assessments against said taxpayer where the said assessments have become final and executory prior to the amnesty

> availments considering that these assessments are already accounts receivables of the BIR or assets of the government.'
>
> Clearly from the language of the above-mentioned laws, it shows that Delinquent Accounts/Accounts Receivables considered as assets by the BIR/Government, including self-assessed taxes are no longer within the coverage of the Tax Amnesty Act of 2007.
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> It is quite important to note that at the time petitioner applied for availment of the TAP on September 19, 2007, the assessment made against it was already at its final, executory and demandable stage. It was already deemed Delinquent Account/Accounts Receivables considered as assets by the BIR/Government. To reiterate, the FDDA was received by petitioner on April 17, 2007. However, instead of filing the case within thirty (30) days from receipt thereof or until May 17, 2007, it elevated the case to this Honorable Court only on August 1, 2008 which is way beyond the limitation prescribed by law. Such being the case, petitioner could no longer avail of the benefits of the Tax Amnesty Act of 2007."

During the scheduled pre-trial on November 20, 2008, the parties agreed to file their Joint Stipulation of Facts and Issues (JSFI) for the approval of the Court. Upon the filing thereof on January 12, 2009[10], the Court, in the Resolution dated January 15, 2009[11], approved the parties' "Joint Stipulation of Facts and Issues", considered pre-trial deemed terminated, and ordered the parties to proceed with the trial on the merits presenting only evidence not covered by the said JSFI.

During trial, the parties presented their respective evidence.

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[10] Docket, pp. 188-193.
[11] Docket, p. 208.

Petitioner presented witnesses Michael Donovan S. Rojas, Irish Hazel Manaois, Ma. Nenita Estipona, Ayrin Carino, and Ronaldo Sebastian. Thereafter, petitioner's formally offered exhibits were admitted in a Resolution dated October 7, 2009[12], October 22, 2009[13], and July 25, 2011[14].

For her part, respondent presented witnesses Ronaldo Camba, Joy Albert Arano, Josefina Hora, Marites Agustin, and Roberto Mejica. Respondent's formally offered exhibits were admitted in a Resolution dated July 25, 2011[15], October 3, 2011[16], and January 19, 2012[17]. Hence, the parties were directed to file their respective Memorandum.

Petitioner filed its Memorandum on February 23, 2012. And upon the submission of respondent's Memorandum on March 26, 2012, this case was submitted for decision on March 29, 2012.[18]

Hence, this Decision.

THE ISSUES

As agreed upon, these are the submitted issues[19] for the Court's consideration:

> "1. Whether or not mailing of an FDDA to a taxpayer, through a 'NO return card' basis is valid and sufficient service of FDDA to taxpayers.

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[12] Docket, pp. 436-437.
[13] Docket, p. 448.
[14] Docket, pp. 684-685.
[15] *Id.*
[16] Docket, pp. 718-721.
[17] Docket, pp. 790-791.
[18] Docket, p. 873.
[19] Docket, p. 192.

2. Whether or not petitioner received the FDDA, through registered mail allegedly made on 12 April 2007.

3. Whether or not the FDDA in this case, can be considered to have become final and executory.

4. Whether or not petitioner can validly avail of the benefits under Republic Act No. 9480, otherwise known as the 'Tax Amnesty Act of 2007', through the Implementing Revenue Regulations (IRR) under Revenue Memorandum Circular *(RMC) No. 55-2007* d7ated 21 August 2007, at the time of its application thereof on 19 September 2007.

5. Whether or not Q & A No. 4 of *RMC No. 69-2007* and *RMC No. 19-2008* is applicable to the case of petitioner considering that the alleged FDDA's finality is contested.

6. Whether or not *RMC No. 69-2007* and similar issuances of the BIR excluding assessments which have become final and executory (other than those cases subject of final and executory judgments by the courts) from the coverage of the Tax Amnesty Law, constitute an administrative legislation.

7. Whether or not there is a necessity for this Honorable Court to issue the Writ of Preliminary Injunction or Temporary Restraining Order.

8. Depending on the resolutions of the above-identified issues, whether or not petitioner is liable to pay its alleged deficiency Income, Value-Added and Documentary Stamp Tax for taxable year 2001, with surcharges and interests thereon pursuant to Sections 248 and 249 of the NIRC."

Petitioner's Arguments

Petitioner claims that respondent miserably failed to discharge its burden of proving that indeed the Final Decision on Disputed Assessment (FDDA) was actually mailed to and received by petitioner, or its authorized representative. Respondent's witness, Ronald Camba, the handling Revenue Officer who allegedly served the FDDA to the petitioner by registered mail on a "NO RETURN CARD" basis, did not know whether the FDDA was actually received by petitioner. Having mailed the said FDDA on a "NO RETURN CARD BASIS", and absent any subsequent verification from petitioner's representatives, respondent was clearly in no position to determine whether the same actually reached petitioner. Thus, in the absence of the registry return card showing petitioner's actual receipt of the FDDA, the documentary evidence presented in this case are utterly insufficient to prove that the FDDA was actually mailed and received by the petitioner in due course of mail.

As there is allegedly no duly received decision of the Commissioner of Internal Revenue which may be appealed before this Court, and since petitioner did not receive the FDDA, it can hardly be said that petitioner lost its right to appeal.

Even assuming that it actually received the FDDA and the same was already final and executory, still it is entitled to avail of the benefits of the Tax Amnesty Law as implemented by the applicable implementing BIR issuance, RMC No. 55-2007. However, its application for tax amnesty for taxable year 2005 and prior years, was denied by respondent in its letter dated March 31, 2008, citing RMC No. 19-2008 dated February 22, 2008, as basis for the denial on the ground that its case falls within one of the cases excepted from the coverage of the Tax Amnesty Law.

Respondent's Counter-arguments

On the other hand, respondent counter-argues that she was able to prove during trial that petitioner received the FDDA rendering the deficiency assessments against petitioner final, executory, and demandable. Respondent points out that petitioner's bare denial and/or negative averments as regards the receipt of the FDDA cannot reign supreme over the affirmative declarations and testimonies of respondent's witnesses, the employees from the Philippine Postal Corporation, who testified on the basis of the records of the Post Office.

According to respondent, the deficiency assessment is rendered final and executory for failure on the part of petitioner to appeal the same within the period prescribed by law. As petitioner allegedly had actual receipt of the FDDA on April 17, 2007, it had thirty (30) days from receipt thereof or until May 17, 2007 within which to elevate the case to this Court. However, it was only on August 1, 2008, or after the lapse of almost one (1) year and four (4) months that petitioner took to perfect its appeal, thereby rendering the FDDA final and executory.

THIS COURT'S RULING

The crux of the present controversy revolves around the propriety of service of the Final Decision on Disputed Assessment (FDDA) upon petitioner; and the validity of petitioner's subsequent availment of tax amnesty under Republic Act 9480.

Evidently, the FDDA was sent to petitioner through registered mail on a "No Return Card" Basis on April 12, 2007 as per Registry Receipt No. 1921[20].

To the mind of the Court, why would an important document like the FDDA be sent by registered mail on a "**No Return Card**" basis, when receipt of the same, or completeness of service of mail matters in accordance with legal requirements, is very vital as it carries legal consequences on the rights of the taxpayer to be informed of any tax burden imposed by the BIR, and of the government to collect the correct taxes imposed upon a taxpayer.

Respondent insists that the mail matter containing the subject FDDA was received by the security guard posted at petitioner's premises on April 17, 2007; that said manner of service is sufficient compliance with legal requirements, and petitioner's failure to timely appeal the FDDA with this Court within the prescriptive period rendered the said FDDA final and executory. This was the reason given by respondent in denying petitioner's subsequent application for tax amnesty under Republic Act (R.A.) No. 9480.

On the other hand, petitioner submits that the security guards posted at its premises are not clothe with appropriate authority to receive mail matters for and on its behalf, thereby assailing the manner by which the FDDA was served. To bolster its claim, petitioner presented the testimonies of its witnesses, namely: Michael Donovan S. Rojas, Irish Hazel G. Manaois,

[20] Exhibit "18", Registry Receipt No. 1921 dated April 12, 2007.

Ma. Nenita Estipona, and Ronald Sebastian. Likewise, petitioner presented the following documentary evidence:

1. Letter to the BIR dated December 12, 2007, which was signed by its President, Mr. Rojas, denying receipt of the alleged mailed FDDA;[21]

2. Contract of Security Services executed by and between petitioner and Superb Security and Investigation Agency, Inc. (Superb Security), which was offered to prove, among others, that receipt of mail matters on behalf of petitioner is not among the duties and responsibilities of the security guards dispatched by Superb Security and that the security guards dispatched to petitioner's premises are not authorized representatives of petitioner;[22]

3. Inter-Office Memorandum dated June 6, 1989 to prove petitioner's long-standing policy regarding the lack of authority of security guards to receive mail matters addressed to petitioner;[23]

4. Inter-Office Memorandum dated April 25, 2007 to prove that petitioner has always maintained its long-standing policy that security guards are not authorized to receive documents for petitioner;[24]

5. Judicial Affidavit of Mr. Michael Donovan S. Rojas dated January 26, 2009, which intends to prove the lack of actual receipt of the FDDA by petitioner and the lack of knowledge and lack of actual receipt on the part of petitioner's officers and duly authorized representatives as to the purported receipt of the FDDA;[25]

6. Judicial Affidavit of Ms. Irish Hazel G. Manaois dated April 24, 2009, which intends to prove, among others, that petitioner did not at all receive the FDDA;[26]

[21] Exhibit "J"
[22] Exhibit "L"
[23] Exhibit "M"
[24] Exhibit "N"
[25] Exhibit "O"
[26] Exhibit "S"

7. Judicial Affidavit of Ms. Ma. Nenita Estipona dated May 22, 2009 to prove, among others, the lack of knowledge and lack of actual receipt on the part of petitioner's officers and duly authorized representatives of the FDDA and the existence of the long-standing policy of petitioner regarding the lack of authority of security guards to receive mail matters addressed to petitioner;[27] and

8. Judicial Affidavit of Mr. Ronald Sebastian dated July 21, 2009, which was offered to prove the lack of authority of security guards to receive mail matters on behalf of petitioner, his knowledge of petitioner's long-standing policy on receipt of mail matters addressed to petitioner, his lack of recollection/knowledge of the circumstances surrounding his alleged receipt of the FDDA, and his lack of knowledge of the FDDA and the contents thereof.[28]

In light of the foregoing considerations, We are confronted with these two (2) issues : whether or not petitioner can validly avail of the benefits under Republic Act No. 9480, otherwise known as the "Tax Amnesty Act of 2007", through the Implementing Revenue Regulations (IRR) under Revenue Memorandum Circular *(RMC) No. 55-2007* dated 21 August 2007, at the time of its application thereof on September 21, 2007; and whether the denial of said availment contained in respondent's letter dated July 16, 2008 can be the proper subject of the instant Petition for Review.

We rule in the affirmative.

The limited jurisdiction of the Court of Tax Appeals (CTA) is defined under in Section 7 of Republic Act No. 1125, as amended by R.A. No. 9282, which provides:

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[27] Exhibit "T"
[28] Exhibit "X"

"**SECTION 7.** *Jurisdiction.* — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue **or other laws administered by the Bureau of Internal Revenue**; *(Emphasis Ours)*

Consistent with Section 7 of R.A. No. 1125, as amended by R.A. No. 9282, is Section 3(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), to wit:

"**SEC. 3.** *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

(1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, **or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**;

Moreover, Section 11 of the R.A. No. 1125, as amended by R.A. 9282, provides that that "[a]ny party adversely affected by a **decision,** ruling or inaction of the Commissioner of Internal Revenue xxx may file an appeal with the CTA **within thirty (30) days after the receipt of such decision or ruling** xxx".

Based from the above-cited provisions, it is clear that the appellate jurisdiction of this Court is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. As clearly stated in the second part of Section 7(a)(1), it likewise covers "decisions" of respondent Commissioner of Internal Revenue involving matters arising from other laws administered by the Bureau of Internal Revenue.

In the instant case, the subject of petitioner's appeal is respondent's Letter dated July 16, 2008. A perusal of respondent's Letter dated July 16, 2008 shows that it speaks of a final decision of respondent declaring petitioner's availment of tax amnesty under R.A. No. 9480 (a law administered by the Bureau of Internal Revenue) on September 21, 2007, as not valid and ineffective for the reason that the subject FDDA allegedly sent to and received by petitioner was not judicially appealed within the 30-day prescriptive period.

It is readily conceivable that said Letter dated July 16, 2008 is a "**decision**" contemplated under R.A. No. 1125, as amended by R.A. No. 9282, while the **"law administered by the Bureau of Internal Revenue**" is Republic Act No. 9480, otherwise known as the Tax Amnesty Law. Thus, when petitioner received the said Letter on July 23, 2008[29], petitioner had a period of 30 days therefrom or until August 22, 2008 within which to appeal the said decision before this Court. Aptly, the instant petition was filed on August 1, 2008, which is well within the said prescriptive period.

Accordingly, this Court has jurisdiction over the present case and may therefore resolve the issue on the validity of petitioner's availment of tax amnesty on September 21, 2007 under R.A. No. 9480.

Relevant thereto, We find it appropriate to rule on the fourth issue stipulated and presented by the parties, to wit: "Whether or not petitioner can validly avail of the benefits under Republic Act No. 9480, otherwise known as the 'Tax Amnesty Act of 2007', through the Implementing Revenue Regulations under Revenue Memorandum Circular *(RMC) No. 55-2007* dated 21 August 2007, at the time of its application thereof on 19 September 2007", for the main reason that the tax amnesty granted under Republic Act No. 9480 covers all national internal revenue taxes for taxable year 2005 and prior years, with or without assessments duly issued therefor, that have remained unpaid as of December 31, 2005[30]. Hence, if properly and timely availed of, the need to determine the finality of the FDDA is deemed academic.

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[29] Exhibit "15-a" (note that Exhibit "15", though not formally offered in evidence by respondent, was admitted by both parties in paragraph 12, JSFI, Docket, p. 190), BIR Records, p. 1547.
[30] Section 1, R.A. No. 9480.

At the outset, a tax amnesty is a general pardon or the intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law. It partakes of an absolute forgiveness or waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate.[31]

Section 8 of R.A. No. 9480 and Section 5 of Rule II of Department of Finance (DOF) Order No. 29-07 or the Rules and Regulations to Implement R.A. No. 9480 (IRR) provide the only exceptions to the application of the Tax Amnesty Law of 2007, to wit:

> 1. Withholding agents with respect to 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 of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and

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[31] *Commissioner of Internal Revenue vs. Marubeni Corp.*, G.R. No. 137377, December 18, 2001.

6. Tax cases subject of final and executory judgment by the courts.

Respondent's basis, however, in denying petitioner's application for tax amnesty is Revenue Memorandum Circular (RMC) No. 19-2008. The aforesaid RMC includes "Delinquent Accounts/Accounts Receivables considered as assets of the BIR/Government including self-assessed tax" as one of the exceptions from the coverage of the Tax Amnesty Program. Also, respondent relied on RMC No. 69-2007, which was issued in Question and Answer (Q & A) format. A-4 of Q-4 of RMC No. 69-2007 provides that "Amnesty availment will not have an effect on assessments against said taxpayer where the said assessments have become final and executory prior to the amnesty availment considering that these assessments are already accounts receivable of the BIR or assets of the government."

Respondent's reliance on the foregoing RMCs holds no water.

This Court has consistently ruled that R.A. No. 9480 and Department Order No. 29-07 are the governing law and regulation as regards the subject Tax Amnesty Program, and both explicitly do not include "Delinquent Accounts/Accounts Receivable considered as assets of the BIR/Government, including self-assessed tax" as one of the exceptions to the coverage of R.A. No. 9480.

We adhere to the principle that a regulation or any portion thereof not adopted pursuant to law is no law and has neither the force nor the effect of law.[32] Applying the foregoing in the present case, We are therefore constrained to consider both RMC No. 69-2007 and RMC No. 19-2008 to have neither the force nor the effect of law insofar as they included "Delinquent Accounts/Accounts Receivable considered as assets of the BIR/Government, including self-assessed tax" as one of the exceptions to the coverage of R.A. No. 9480. This resolves the fifth and sixth issues submitted by the parties before Us.

Now, considering that petitioner has submitted to this Court documentary evidence relative to its availment of the Tax Amnesty Program, We shall now determine its substantial compliance thereto.

It must be emphasized that a taxpayer desiring to avail of the benefits thereof must conform to the requirements specified under Section 2 of R.A. No. 9480, which provides:

> "SECTION 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) <u>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.</u>" *(Underscoring Ours)*

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[32] *Commissioner of Internal Revenue vs. Central Luzon Drug Corporation*, G.R. No. 159647, 456 SCRA 441, April 15, 2005.

In addition, under its IRR,[33] a taxpayer availing of the program must present in the original or in certified true copy or in faithful reproduction of the original, the following documents:

- 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)

Records reveal that on September 19, 2007, petitioners availed of the Tax Amnesty Program under R.A. No. 9480, paid the amnesty tax to Development Bank of the Philippines, Quezon Avenue Branch, as evidenced by its Tax Payment Deposit Slip dated September 21, 2007[34], and in support thereof, submitted the faithful reproduction of the original copies of the following documents:

1. Notice of Availment of Tax Amnesty	Exh. "F"
2. Tax Amnesty Return for Taxable Year 2005	Exh. "F-3"
3. Statement of Assets, Liabilities and Net Worth as of December 31, 2005	Exh. "F-4"
4. Comparative Financial Statements as of December 2005 and 2006	Exh. "F-5"
5. Tax Amnesty Payment Form	Exh. "G"

Petitioner duly complied with the foregoing requirements. In its Formal Offer of Evidence filed on August 26, 2009, petitioner offered its duly filed Notice of Availment of Tax Amnesty dated September 19, 2007, signed by Ms. Irish Hazel G. Manaois, and received by the BIR on the same date, together with its Tax Amnesty Return, Statement of Assets, Liabilities and

[33] Department of Finance Department Order No. 29-07, August 15, 2007.
[34] Exhibit "G-3", Docket, p. 335.

Networth (SALN), and comparative Financial Statements for 2005 and 2006, marked as Exhibits "F", "F-1", "F-2", "F-3", "F-4", and "F-5", respectively. Petitioner also offered its Tax Amnesty Payment Form (BIR Form No. 0617) dated September 20, 2007 and the computer-generated BIR Payment Form as Exhibits "G", "G-1", "G-2", and "G-3". In addition, it likewise offered as part of its evidence Exhibit "G-4" which pertains to its Payment Form (BIR Form No. 0605) dated September 11, 2007 showing payment through EFPS with Filing Reference No. 290700001797122 of its tax deficiency on withholding tax in the amount of P736,726.89.

Aside from the fact that petitioner submitted to this Court the foregoing documentary requirements, the one-year period to contest the presumption of correctness of SALN, which should be reckoned from the date of filing of the Tax Amnesty Return and the SALN pursuant to Section 4 of R.A. No. 9480[35], had already lapsed. To date, there is nothing in the records which would show that proceedings have been filed to establish the understatement of petitioner's declared networth by or at the instance of the parties, other than the BIR or its agents.

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[35] SEC. 4. *Presumption of Correctness of the SALN.* – The SALN as of December 31, 2005 shall be considered as true and correct except where the amount of declared networth is understated to the extent of thirty percent (30%) or more as may be established in proceedings initiated by, or at the instance of, parties other than the BIR or its agents: *Provided*, That such proceedings must be initiated within one year following the date of the filing of the tax amnesty return and the SALN. Findings of or admission in congressional hearings, other administrative agencies of government, and/or courts shall be admissible to prove a thirty percent (30%) under-declaration.

It should also be stressed that petitioner paid the required amnesty tax prescribed by Section 7 of Department Order No. 29-07, which provides:

> "SEC. 7. *Tax Amnesty Rates.* – In order to enjoy the benefits of the tax amnesty program, the qualified taxpayers are required to pay an amnesty tax equivalent to five percent (5%) of their total declared networth as of December 31, 2005, as declared in the SALN as of the said period, or resulting increase in networth by amending such previously filed statements for purposes of this tax amnesty, thereby including still undeclared assets and/or liabilities, as the case may be, as of December 31, 2005, or the absolute minimum amnesty payment, whichever is higher, in accordance with the following schedule:

1. Individuals (whether resident or nonresident citizens, including resident or nonresident aliens), Estates and Trusts	5% or P50,000 whichever is higher
2. Corporations	
(a) With subscribed capital of above P50 Million	5% or P500,000 whichever is higher
(b) With subscribed capital of above P20 Million up to P50 Million	5% or P250,000 whichever is higher
(c) With subscribed capital of P5 Million to P20 Million	5% or P100,000 whichever is higher
(d) With subscribed capital of P5 Million	5% or P25,000 whichever is higher"

Petitioner is a corporation duly organized and existing under Philippine laws as admitted by both parties.[36] Petitioner's comparative Financial Statements[37] for years 2006 and 2005 would show that it has authorized and

[36] Par. 1, Admitted Facts, JSFI, Docket, p. 188.
[37] Exhibit "F-5"; Docket, pp. 328 and 331.

issued 150,000,000 shares amounting to P150,000,000.00. Thus, being a corporation with subscribed capital of above fifty (50) million pesos, the above-quoted Department Order requires that petitioner should pay an amnesty tax equivalent to five percent (5%) of its total declared networth as of December 31, 2005, as declared in the SALN as of the said period, or resulting increase in networth, or P500,000.00, whichever is higher.

The Tax Amnesty Return[38] offered by petitioner shows that it has a networth as of December 31, 2005 of P166,453,700.00. This amount finds support in petitioner's Financial Statement, particularly in its Balance Sheet after deducting the total liabilities of P263,614,344.00 from the total assets of P430,068,044.00.[39] Likewise, the said Tax Amnesty Return indicates a Total Networth per Amended Return of P168,970,347.00, which is close to the amount of networth declared in the SALN of petitioner as of December 31, 2005.[40]

Based on the Tax Amnesty Return, together with the Financial Statements and SALN submitted by petitioner, there is an increase networth of P2,516,647.00. Applying the 5% tax amnesty rate thereof will yield an amount of P125,832.33; thus, petitioner correctly paid the higher amount of P500,000.00 required by Department Order No. 29-07.

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[38] Exhibit "F-3".
[39] Exhibit "F-5", Docket, pp. 328 and 331.
[40] Exhibit "F-4"; The amount declared in the SALN is P168,970,346.56, while that of the Tax Amnesty Return is P168,970,347.00 or a rounding-off difference of 0.44.

Correspondingly, petitioner is fully entitled to the immunities and privileges mentioned under Section 6 of R.A. No. 9480, which reads:

> "SEC. 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:
>
> (a) 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.
>
> (b) The taxpayer's Tax Amnesty Returns and the SALN as of December 31, 2005 shall not be admissible as evidence in all proceedings that pertain to taxable year 2005 and prior years, insofar as such proceedings relate to internal revenue taxes, before judicial, quasi-judicial or administrative bodies in which he is a defendant or respondent, and except for the purpose of ascertaining the networth beginning January 1, 2006, the same shall not be examined, inquired or looked into by any person or government office. However, the taxpayer may use this as a defense, whenever appropriate, in cases brought against him.
>
> (c) The books of accounts and other records of the taxpayer for the years covered by the tax amnesty availed of shall not be examined: Provided, That the Commissioner of Internal Revenue may authorize in writing the examination of the said books of accounts and other records to verify the validity or correctness of a claim for any tax refund, tax credit (other than refund or credit of taxes withheld on wages), tax incentives, and/or exemptions under existing laws."

The foregoing is bolstered in ***Philippine Banking Corporation (now Global Business Bank, Inc.) vs. Commissioner of Internal Revenue,***[41] wherein it held that:

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

> "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 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 failure to pay any and all internal revenue taxes for taxable year 2005 and prior years**." *(Emphasis Ours)*

By way of reiteration, considering that petitioner is not disqualified from availing of the tax amnesty provided under R.A. No. 9480[42], and that it had appropriately complied with the requirements set forth under said law, petitioner is therefore entitled to all the immunities and privileges granted therein. Consequently, with this Court's foregoing factual and legal findings, resolution of other issues becomes unnecessary.

WHEREFORE, premises considered, the instant Petition for Review is **GRANTED**. The subject assessment in the present case against petitioner is hereby **SET ASIDE** solely in view of petitioner's availment of the Tax Amnesty Program under R.A. No. 9480; and accordingly, petitioner is hereby **DECLARED ENTITLED** to the immunities and privileges provided by the Tax

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[42] SEC. 8 of Republic Act No. 9480 mentions the ***Exceptions***, as follows— The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act: (a) Withholding agents with respects to their withholding tax liabilities; (b) Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government; (c) Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act; (d) Those with pending cases filed in court involving violation of the Anti-Money Laundering Law; (e) 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 of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and (f) Tax cases subject of final and executory judgment by the courts.

Amnesty Law being a qualified tax amnesty applicant and for having complied with all the documentary requirements set by law.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

C E R T I F I C A T I O N

I hereby certify that the decision was reached after due consultation with the members of the division of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Justice