REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

ASIAGROUP HOLDINGS, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9173

Members:

DEL ROSARIO, P.J., *Chairperson*
UY, and
MINDARO-GRULLA, *JJ.*

Promulgated:
APR 24 2018 ; 3:05 pm

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RESOLUTION

MINDARO-GRULLA, J.:

For resolution of this Court is petitioner Asiagroup's Manifestation with Motion to Withdraw Petition filed on October 12, 2017, without respondent CIR's Comment as per Records Verification Report dated November 29, 2017.

Petitioner, in its motion, moves for the dismissal of its Petition for Review filed on October 21, 2015 on the ground that its Application for Compromise was approved by the Bureau of Internal Revenue on September 26, 2017.

However, considering that this Court needs to evaluate and verify the authenticity of the approved compromise, the Court, before resolving the motion, issued a Resolution dated January 18, 2018 ordering respondent CIR to submit the originals or certified true copies of the following documents:

a) Approval of Application for Compromise Settlement;
b) Certificate of Availment; and

c) Proof of Payment in the amount of Php3,160,000.00, as indicated in the Approval of Application for Compromise Settlement.

Regrettably, as per Records Verification dated February 2, 2018, respondent's counsel failed to comply with the aforementioned Resolution.

Consequently, the Court issued a Resolution on February 12, 2018 ordering herein respondent's counsel to show cause for his non-compliance. However, respondent's counsel still failed to comply despite notice.

In the spirit of liberality, the Court issued another Resolution dated March 28, 2018, wherein respondent's counsel was given a **final and non-extendible** period of five (5) days within which to comply with this Court's Resolution dated February 12, 2018.

On April 6, 2018, respondent's counsel filed his compliance explaining therein that his failure to timely comply was due to the fact that the BIR records was not in the possession of the handling lawyer. Accordingly, respondent's counsel submitted the following documents:

a.) Duplicate original of the Approval of Application for Compromise Settlement[1];

b.) A copy of the Certificate of Availment dated September 26, 2017[2];

c.) Duly Stamped BIR Form No. 0605 showing payments in the amount of P3,160,000.00 and P25,000.00, together with the DBP-BIR Tax Payment Deposit Slips[3]; and

d.) Duplicate Original of Authority to Cancel Assessment No. ACA 2011-00002672[4].

Considering the submission of the afore-mentioned documents, We now resolve.

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[1] Compliance, Annex "A"
[2] Ibid., Annex "B"; Original Copy of the Certificate of Availment, Annex "A", Docket, p 303.
[3] Ibid., Annexes "C" to "C-2".
[4] Ibid., Annex "D"

Section 204 of the Tax Code provides that the payment of any internal revenue tax may be compromised subject to the underlying rule that the compromise complies with the requirements under the applicable laws and regulations.

In this regard, pursuant to Section 6 of Revenue Regulations No. 30-2002[5], as mandated by Section 204 of the NIRC, the compromise settlement must be approved by majority of all the members of the National Evaluation Board (NEB). In the absence of proof that the compromise offer was approved and accepted by officers who are authorized by the Commissioner, the same can be disregarded[6].

Based on the foregoing, records reveal that there is sufficient evidence to prove that the Application for Compromise was indeed approved by the respondent and by the National Evaluation Board (NEB), and that withdrawal of the petition should be granted by this Court.

Furthermore, under the Civil Code and Revised Rules of Court, courts are directed to persuade litigants in civil cases to agree upon some fair compromise[7]. A compromise settlement is basically intended to resolve a matter already under litigation, therefore, such agreement has the force of law and is conclusive between the parties.

WHEREFORE, premises considered, the Compliance filed on April 6, 2018 is hereby **NOTED**. Petitioner's Manifestation with Motion to Withdraw Petition filed on October 12, 2017 is hereby **GRANTED.**

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[5] REVENUE REGULATION NO. 9-2013, May 10, 2013.

Section 6 of Revenue Regulations No. 30-2002 shall now read as follows:

"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

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.

xxx xxx xxx"

[6] Security Bank Corp. vs. Commissioner of Internal Revenue, G.R. No. 130838, promulgated Aug. 22, 2006.

[7] Viesca vs. Gilinsky, G.R. No. 171698, July 4, 2007.

Accordingly, the instant Petition for Review filed on October 21, 2015 is hereby deemed **WITHDRAWN**, and the case is hereby declared **CLOSED and TERMINATED.**

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(on leave)
ERLINDA P. UY
Associate Justice