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

**SECOND DIVISION**

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| **ORDOPRIME VENTURES, INC.,** Petitioner, | **CTA CASE NO. 10042** |
| | Members: |
| - versus - | **CASTAÑEDA, JR.,** *Chairperson, and* **BACORRO-VILLENA,** *JJ.* |
| **COMMISSIONER OF INTERNAL REVENUE,** Respondent. | Promulgated: MAR 13 2021 9:N a.m |

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# JUDGMENT BASED ON COMPROMISE AGREEMENT

**CASTAÑEDA, JR., *J.*:**

Before this Court are the following:

1. the **Philippine Mediation Center-Court of Tax Appeals' (PMC-CTA) Mediator's Report**, submitted on September 21, 2020, showing that there was a successful settlement of the case with the parties' complete Compromise Agreement; and

2. respondent's **Compliance**, filed on February 11, 2021.

On March 1, 2019, petitioner filed a Petition for Review, praying for the cancellation of its deficiency income tax, deficiency value-added tax, deficiency expanded withholding tax, compromise penalty, surcharge and interest charges for taxable year 2014, in the following amounts[1]:

| | Basic Tax | Surcharge | Interest | Compromise Penalty | Total |
|---|---|---|---|---|---|
| I. Income Tax Deficiency | ₱ 3,335,913.34 | ₱ 0.00 | ₱ 1,809,618.75 | - | ₱ 5,145,532.09 |
| II. Value-Added Tax Deficiency | ₱ 66,304.43 | ₱ 0.00 | ₱ 38,874.38 | - | ₱ 105,178.81 |
| III. Expanded Withholding Tax | ₱ 97,658.10 | ₱ 0.00 | ₱ 57,792.19 | - | ₱ 155,450.29 |
| IV. Final Withholding Tax | ₱ 271,818.86 | ₱ 67,954.72 | ₱ 160,857.19 | - | ₱ 500,630.77 |
| IV. Compromise penalty | ₱ 0.00 | ₱ 0.00 | ₱ 0.00 | ₱ 205,000.00 | ₱ 205,000.00 |
| Total Deficiency Taxes | ₱ 3,771,694.73 | ₱ 67,954.72 | ₱ 2,067,142.51 | ₱ 205,000.00 | ₱ 6,111,791.96 |

On June 20, 2019, petitioner moved to refer the case to mediation.[2] In the Order dated July 4, 2019, the Court referred the case to mediation in the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA).[3]

After the termination of the mediation proceedings, the PMC-CTA forwarded on September 21, 2020 the Mediator's Report **PMC-CTA's Mediator's Report**, signed by (Ret.) Justice Amelia R. Cotangco-Manalastas, stating that there has been a successful settlement in this case.[4] Attached to the said Report are the following supporting documents, *viz*:[5]

(i) Agreement to Mediate and Selection of Mediator dated July 24, 2019 (original copy);

(ii) Selection of Mediator dated July 24, 2019, whereby the parties selected (Ret.) Justice Amelia R. Cotangco-Manalastas to be the Mediator in the instant case (original copy);

(iii) Special Power of Attorney dated July 24, 2019, signed by the Bureau of Internal Revenue's Deputy Commissioner-Legal Group, Ms. Marissa O.

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[1] As found in the Final Decision on Disputed Assessment dated May 28, 2018 attached to the Petition for Review as Annex "I", docket, vol. I, pp. 53-56.
[2] Motion to Refer Case to Mediation filed on June 20, 2019, *id.*, pp. 160-162.
[3] *Id.*, pp. 180-181.
[4] *Id.*, p. 214.
[5] *Id.*, pp. 215-227.

Cabreros, whereby she appointed Atty. Felix Paul R. Velasco III, Atty. Sylvia R. Alma Jose, Atty. Marveen B. De La Paz, and/or any lawyer from Litigation Division of the BIR to appear for and in behalf of respondent at the mediation of the instant case (original copy);

(iv) Secretary's Certificate dated February 28, 2019, signed by petitioner's Corporate Secretary, Raymond John G. Ordoveza, whereby petitioner's Board of Directors appointed Ana Maria G. Ordoveza, Francis Joseph G. Ordoveza, and/or Atty. Reynaldo C. Rafael, to be the authorized representative/s of the petitioner (photocopy);

(v) Appearance of Parties in the August 8, 2019 Mediation Conference (original copy);

(vi) Undated Compromise Agreement, signed by petitioner's President, Francis Joseph G. Ordoveza, on behalf of petitioner, and respondent Commissioner of Internal Revenue, Caesar R. Dulay, and attested to by (Ret.) Justice Amelia R. Cotangco-Manalastas (original copy);

(vii) Metrobank Tax Payment Transaction Acknowledgment Form with Reference No. 269-158-200807-00192 with payment amount, ₱1,334,365.34 (photocopy);

(viii) eFPS Payment Form with Filing Reference Number 292000037185382 with payment amount, ₱1,334,365.34 (photocopy); and

(ix) BIR Payment Form No. 0605 with payment amount, ₱1,334,365.34 (photocopy).

In the Resolution dated October 12, 2020, the Court noted that the parties did not submit documents showing the approval of the subject compromise agreement by the NEB, and that the Secretary's Certificate and Payment Forms attached to the PMC-CTA's Mediator's

Report dated September 21, 2020 were mere photocopies. Hence, the Court ordered the parties to submit the following:

1. Complete proof of payment of the compromise amount;

2. Secretary's Certificate authorizing Ana Maria G. Ordoveza, Francis Joseph G. Ordoveza, and/or Atty. Reynaldo C. Rafael to represent petitioner;

3. Certificate of Availment showing the approval by the NEB; and

4. Any other document not mentioned above, supporting the approval of the subject compromise.[6]

In the Resolution dated December 4, 2020,[7] the Court noted petitioner's submission of the following:[8]

1. Payment Form 0605 and eFPS Payment Details in the amount of ₱1,334,365.34 (2014 income tax) certified by Chief of the Collection Section, Yolanda G. Tatad;

2. Payment Form 0605 and eFPS Payment Details in the amount of ₱26,521.77 (2014 value-added tax) certified by Chief of the Collection Section, Yolanda G. Tatad;

3. Payment Form 0605 and eFPS Payment Details in the amount of ₱97,658.10 (2014 expanded withholding tax) certified by Chief of the Collection Section, Yolanda G. Tatad;

4. Payment Form 0605 and eFPS Payment Details in the amount of ₱271,818.86 (2014 final withholding tax) certified by Chief of the Collection Section, Yolanda G. Tatad; and

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[6] *Id.*, pp. 229-233.
[7] *Id.*, pp. 253-255.
[8] Petitioner's Compliance filed on November 3, 2020, *id.*, pp. 235-236.

5. Original Secretary's Certificate authorizing Ana Maria G. Ordoveza, Francis Joseph G. Ordoveza, and/or Atty. Reynaldo C. Rafael to represent petitioner.

However, the Court also noted that the parties had yet to submit any document showing the approval by the NEB of the compromise agreement.

In the Resolution dated January 13, 2021, the Court granted respondent's motion for extension of time to submit the required documents considering respondent's explanation that the NEB has not yet convened due to the current situation.[9]

In its Compliance filed on January 26, 2021 and February 11, 2021, respondent submitted a Certified True Copy of the Certificate of Availment dated January 14, 2021, showing the approval of the NEB of the compromise settlement of deficiency Income, Value-Added, Expanded Withholding, Final Withholding and Miscellaneous taxes, and the signature page showing the approval of the members of the NEB.[10]

The Court notes respondent's Compliance.

Considering the submission of the above documents, the Court shall now act on the PMC-CTA's Mediator's Report and the parties' Compromise Agreement.

The Compromise Agreement partly reads:

**COMPROMISE AGREEMENT**

xxx xxx xxx

WHEREAS, on 1 March 2019, Petitioner Ordoprime Ventures, Inc. filed a Petition for Review challenging the validity of the Final Decision on Disputed Assessment issued by Respondent Commissioner of Internal Revenue in connection with deficiency tax assessments for taxable year 2014. Under the Final Decision on Disputed Assessment, petitioner was required to pay basic tax due in the amount of **Three Million Seven Hundred** 

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[9] *Id.*, pp. 270-271.
[10] *Id.*, pp. 272-276 and 280-284.

**Seventy-One Thousand Six Hundred Ninety-Four and 73/100 Pesos (Php3,771,694.73)** representing deficiency taxes; and

WHEREAS, during mediation proceedings before the Philippine Mediation Center – Court of Tax Appeals, Petitioner has offered to amicably settle the case for **One Million Seven Hundred Thirty Thousand Three Hundred Sixty-Four and 7/100 Pesos (Php1,730,364.07)** to avoid prolonged litigation, as authorized by A.M. No. 11-1-05-SC-PHILJA.

NOW THEREFORE, Petitioner has paid and Respondent has accepted the amount of **One Million Seven Hundred Thirty Thousand Three Hundred Sixty-Four and 7/100 Pesos (Php1,730,364.07)**, representing 40.00% of the basic income tax and value-added tax assessed and 100.00% of the final and expanded withholding taxes assessed, as full satisfaction of the 2014 tax assessment subject to the approval of the Honorable Court of Tax Appeals.

IN WITNESS WHEREOF, the Parties hereto mutually and voluntarily accepted the above stipulations, and sign this Agreement, at Quezon City on this ___th day of August, 2020 for the consideration and approval of the Honorable Court.

**ORDORPRIME VENTURES, INC.**
Petitioner
By:
(signed)
**FRANCIS JOSEPH G. ORDOVEZA**
President

**COMMISSIONER OF INTERNAL REVENUE**
Respondent
(signed)
**CAESAR R. DULAY**
Commissioner

ATTESTED:

(signed)
**(Ret.) Justice AMELIA R. COTANGCO-MANALASTAS**[11]
Mediator

Under the Civil Code and in the Revised Rules of Court, courts are directed to persuade litigants in civil cases to agree upon some fair compromise. Such agreement has the force of law and is conclusive between the parties.[12]

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

[11] Compromise Agreement attached to the PMC-CTA Mediator's Report, *id.*, pp. 220-221.
[12] *Viesca vs. Gilinsky*, G.R. No. 171698, July 4, 2007.

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. It 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. A compromise agreement may be executed in and out of court. Once a compromise agreement is given judicial approval, however, 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.[13]

In this regard, Section 204 (A) of the National Internal Revenue Code of 1997 (1997 NIRC) also provides that for cases other than financial incapacity, the minimum compromise rate is forty percent (40%) of the basic assessed tax. And in case the basic tax exceeds P1,000,000.00 or where the settlement offered is less than the said prescribed minimum rates, the compromise must be approved by the Evaluation Board, which is composed of respondent and the four (4) Deputy Commissioners of the BIR.

Relative thereto, Section 6 of Revenue Regulations (RR) No. 30-2002, as last amended by RR No. 9-2013, provides:

> 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.
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> 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.

[13] *David M. David vs. Federico M. Paragas, Jr.,* G.R. No. 176973, February 25, 2015.

Based from the foregoing, a compromise settlement falling within the jurisdiction of the NEB is valid if the same was approved by a majority of all the members of the NEB, and that there was a full settlement of the offered amount.

Considering the PMC-CTA Mediator's Report of Successful Settlement with the attached Compromise Agreement,[14] the Certificate of Availment (Compromise Settlement),[15] certifying that petitioner's application for compromise settlement of deficiency Income, Value-Added, Expanded Withholding, Final Withholding and Miscellaneous Taxes amounting to ₱6,111,791.96 under the FDDA dated May 28, 2018, covering taxable period 2014, (the subject matter of the instant case) has been approved by the NEB, with the attached signature page,[16] likewise showing the approval signatures of four (4) Deputy Commissioners and of the respondent, as well as the payment forms showing proof of complete payment of the compromise amount[17] and the Secretary's Certificate showing the authority of the person who signed the compromise agreement for petitioner,[18] the Court finds the same in order and in compliance with the established laws, rules and regulations. Accordingly, the Court approves the compromise agreement.

**WHEREFORE**, in view of the foregoing, the **PMC-CTA's Mediator's Report** and respondent's **Compliance** are **NOTED**.

Accordingly, the **Compromise Agreement** entered into by the parties and attached to the report is **APPROVED** and judgment is hereby rendered in accordance therewith. The parties are thus enjoined to faithfully comply with all the terms and conditions of the aforesaid Compromise Agreement.

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

**SO ORDERED.**

[14] PMC-CTA Mediator's Report filed on September 21, 2020, docket, vol. I, p. 214 and 220-221.
[15] Attached to respondent's Compliance filed on January 26, 2021, *id.*, p. 276.
[16] Attached to respondent's Compliance filed on February 11, 2021, *id.*, p. 283.
[17] Attached to petitioner's Compliance filed on November 3, 2020, *id.*, pp. 237-244.
[18] Attached to petitioner's Compliance filed on November 3, 2020, *id.*, p. 245.

**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

I CONCUR:

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

## ATTESTATION

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

**ROMAN G. DEL ROSARIO**
Presiding Justice