REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

GRAFPRINTPAK PHILIPPINES, INC. [formerly: FERROSTAAL PHILIPPINES, INC.],
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE. NO. 9742

Members:

Del Rosario, *P.J., Chairperson, and*
Manahan, *JJ.*

Promulgated:

JUN 30 2021 2:22pm

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JUDGMENT BY COMPROMISE AGREEMENT

On September 6, 2019, the Court received the *Mediator's Report* of successful mediation between the parties, together with the signed *Compromise Agreement.*

After various motions for extensions and partial submissions, petitioner filed on June 9, 2021 its *Compliance* praying that the Court approve the parties' Compromise Agreement and render judgment based thereon. The *Compliance* is NOTED.

The submitted documents are summarized, as follows:

Document Submitted	Date Filed
1) Original Compromise Agreement	September 6, 2019
2) Filing References, Payment Forms (BIR Form No. 0605), eFPS Payment Details, and Transaction Acknowledgments for Payment of: (a) Php404,107.91 for deficiency income tax; (b) Php253,410.11 for deficiency value-added tax; (c) Php4,383.00 for deficiency documentary stamp tax; (d) Php580,143.95 for deficiency expanded withholding tax; and (e) Php505,188.25 for deficiency withholding tax on compensation	October 24, 2019
3) Offers of Compromise Settlement	

(a) dated May 31, 2018; (b) dated June 22, 2018; and (c) dated July 10, 2018	June 9, 2021
4) Certified true copy of the Certificate of Availment dated April 12, 2021	June 9, 2021
5) Certified true copy of the National Evaluation Board (NEB) approval of the compromise	June 9, 2021

In view of the submission of the required documents, we now proceed to analyze the *Compromise Agreement* and supporting documents.

The *Compromise Agreement* partly reads as follows:

> WHEREAS, a dispute arose out of the Final Decision on Disputed Assessment No. 043A-B130-13 (FDDA) dated 10 November 2017 issued by the Respondent against the Petitioner for taxable year 2013;
>
> WHEREAS, the parties have agreed to accept mediation to avoid prolonged litigation, as authorized by A.M. No. 11-1-05-SC-PHILJA;
>
> WHEREAS, the assistance of the assigned mediator resulted in making the parties realize the advantage of ending their dispute by agreeing upon a compromise;
>
> NOW THEREFORE, the parties have agreed to the following terms and conditions:
>
> 1. In view of the financial incapacity of the Petitioner, the Respondent hereby accepts the offer of compromise settlement of the Petitioner for taxable year 2013.
>
> 2. In accordance with Section 204 of the National Internal Revenue Code of 1997, Revenue Regulations No. 30-02, and the Expanded Compromise Settlement Program of the Respondent, the following payments made by the Petitioner on 21 June 2018 are hereby accepted by the Respondent as the full and complete satisfaction of the Petitioner's alleged deficiency taxes for taxable year 2013, as contained in the Final Decision on Dispute *(sic)* Assessment No. 043A-B130-13 (FDDA) dated 10 November 2017:

Tax Type	Basic Tax Assessed	**Compromise Payment**
EWT	Php 580,143.95	**Php 580,143.95**

WTC	505,188.25	**505,188.25**
DST	4,383.00	**4,383.00**
Income TAX	4,041,079.06	**404,107.91**
VAT	2,534,101.09	**253,410.11**
		Php 1,747,233.22

RULING OF THE COURT

Section 204(A) of the 1997 National Internal Revenue Code (NIRC), as amended, provides:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* –
>
> The Commissioner may –
>
> (A) Compromise the payment of any internal revenue tax, when:
>
> (1) A reasonable doubt as to the validity of the claim against the taxpayer exists; or
>
> (2) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.
>
> The compromise settlement of any tax liability shall be subject to the following minimum amounts:
>
> For cases of financial incapacity, a minimum compromise rate equivalent to ten percent (10%) of the basic assessed tax; and
>
> For other cases, a minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.
>
> Where the basic tax involved exceeds One million pesos (P1,000,000) or where the settlement offered is less than the prescribed minimum rates, the compromise shall be subject to the approval of the Evaluation Board which shall be composed of the Commissioner and the four (4) Deputy Commissioners.

Based on the above-cited provision, the requisites for a valid compromise agreement are the following:

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1. The application for compromise is based on either the doubtful validity of respondent's assessment or the taxpayer's financial incapacity to pay such assessment;

2. In case the basis of the compromise offer is doubtful validity, the minimum payment of compromise settlement shall be at the rate equivalent to forty percent (40%) of the basic assessed tax and, if the ground is financial incapacity, the minimum payment should be at the rate equivalent to ten percent (10%) of the basic assessed tax; and

3. The approval of the National Evaluation Board (NEB) which is composed of the respondent and his four (4) Deputy Commissioners if the subject assessment exceeds One Million Pesos (P1,000,000) or where the settlement offered is less than the prescribed minimum rates.

Implementing the foregoing section of the 1997 NIRC, as amended, Revenue Regulations (RR) No. 30-2002 dated December 16, 2002, as amended by RR No. 8-2004, or the "*Revenue Regulations Implementing Section 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,*" provides for those cases that may be compromised, *to wit*:

> SEC. 2. CASES WHICH MAY BE COMPROMISED. – The following cases may, upon taxpayer's compliance with the basis set forth under Section 3 of these Regulations, be the subject matter of compromise settlement, viz:
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> 1. Delinquent accounts;
>
> 2. Cases under administrative protest after issuance of the Final Assessment Notice to the taxpayer which are still pending in the Regional Offices, Revenue District Offices, Legal Service, Large Taxpayer Service (LTS), Collection Service, Enforcement Service and other offices in the National Office;
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> 3. Civil tax cases being disputed before the courts;
>
> 4. Collection cases filed in courts;

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5. Criminal violations, other than those already filed in court or those involving criminal tax fraud.

EXCEPTIONS:

1. Withholding tax cases, unless the applicant-taxpayer invokes provisions of law that cast doubt on the taxpayer's obligation to withhold;

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Based on the records, the application for compromise settlement was grounded on the financial incapacity of petitioner due to the permanent cessation of its business. This is supported by petitioner's *Manifestation* dated April 22, 2019, stating that a Liquidation Order dated March 22, 2019 has been issued by the Regional Trial Court of Pasig City, Branch 159, declaring petitioner insolvent and dissolved as a juridical entity, among others.

Thus, petitioner's financial incapacity has been sufficiently shown.

As to the assessments for expanded withholding tax (EWT), and withholding tax on compensation (WTC), RR No. 30-2002 provides that the same may be compromised only if the taxpayer invokes provisions of law that cast doubt on the taxpayer's obligation to withhold.

In the Petition for Review, petitioner questioned the assessments for deficiency EWT and WTC. Petitioner states that under Section 2.57.2(M) of RR No. 2-98, as amended by RR No. 17-03, only income payments made by the top ten thousand (10,000) private corporations to their local/resident supplier of goods or services are subject to the EWT of 1% or 2%, respectively. Petitioner also stated that purchase of services from non-regular suppliers are not subject to EWT. Petitioner thus alleged that the payments made to foreign suppliers, and suppliers of service who are not "regular suppliers" of the petitioner, should not be subject to EWT. Further, some of its payments are made to general professional partnerships and others who are exempt from withholding taxes. Finally, petitioner alleges that the assessment for deficiency EWT for the months of January 2013 to September 2013 has already prescribed when the Formal Letter of Demand (FLD) /Final Assessment Notice (FAN) was received on November 8, 2016.

As to the deficiency WTC, petitioner alleged that the discrepancies being assessed by respondent pertain to the retirement and provident fund, as well as the employer's share in SSS, PhilHealth, and Pag-IBIG contributions, among others, which are not subject to WTC. Petitioner also alleges that the assessment for deficiency WTC for the months of January 2013 to September 2013 has already prescribed.

In his Answer, respondent stated that petitioner failed to submit the documents/proof pertaining to reconciliation schedules that would demonstrate how the disallowed income payments were not subject to EWT or WTC (i.e., that the suppliers were not "regular suppliers", or that the payments were retirement benefits).

The arguments propounded by the parties relative to the deficiency EWT and WTC assessments show that the validity thereof was clearly put in issue. Thus, the compromise of the EWT and WTC assessments complies with RR No. 30-2002.

As to the amount of compromise payment, petitioner paid 100% of the basic deficiency assessments for EWT, WTC, and documentary stamp tax (DST), and 10% of the basic deficiency assessments for income tax and value-added tax (VAT), as shown in the table above. The amounts paid were also reflected in the Filing References, Payment Forms (BIR Form No. 0605), eFPS Payment Details, and Transaction Acknowledgments.

The computation of the compromise settlement amount, using 10% as compromise rate, is in accordance with Section 204(A) of the 1997 NIRC, as amended.

This also complies with Section 3(2)(c) in relation to Section 4(1) of RR No. 30-2002 which requires that for the 10% minimum percentage to apply in cases of financial incapacity, the taxpayer must be suffering from net worth deficit (i.e., the total liabilities must exceed the total assets). As shown in the Statement of Financial Position (In Process of Liquidation) for the period ending December 31, 2017, petitioner's Total Liabilities of Php24,070,266 exceeded its Total Assets of Php20,701,791.

Thus, the correct computation of the compromise amount at the rates of 10% for income tax and VAT and 100% for EWT,

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WTC and DST, and the payment thereof by petitioner, constitute compliance with the second requisite.

As to the last requisite, petitioner submitted the certified true copies of the Certificate of Availment dated April 12, 2021, stating that the application for compromise settlement of deficiency income tax, VAT, EWT, WTC, and DST, under Assessment No. 043-B130-13-(FDDA) covering taxable period 2013 has been approved by the NEB. In addition, petitioner submitted the signature sheet showing the NEB's unanimous approval of the said application for compromise.

With the faithful observance of the parties of all the requisites under Section 204(A) of the 1997 NIRC, as amended, the Court hereby approves the *Compromise Agreement* submitted by the parties.

WHEREFORE, the *Compromise Agreement* entered into by the parties is **APPROVED** and this Judgment on Compromise Agreement is rendered in accordance therewith. The parties are hereby enjoined to faithfully comply with all the terms and conditions of the aforesaid *Compromise Agreement*.

This case is now deemed **CLOSED** and **TERMINATED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Judgment by 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