REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

METROPOLITAN BANK & TRUST COMPANY,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. EB No. 354
(C.T.A. Case No. 7144)

Present:

ACOSTA, *P.J.*,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
PALANCA-ENRIQUEZ, *JJ.*

Promulgated:

AUG 2 9 2008 ; 1:10 pm.

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RESOLUTION

ACOSTA, *P.J.*:

This is a *Petition for Review* before the Court of Tax Appeals *En Banc* filed by petitioner Metropolitan Bank & Trust Company on January 11, 2008 under Republic Act No. 9282, seeking the reversal of the Decision and subsequent Resolution rendered by the Second Division of the Court of Tax Appeals in CTA Case No. 7144. The dispositive portions of the assailed Decision and Resolution are as follows:

> "**IN VIEW OF THE FOREGOING**, the subject Petition for Review is hereby **DISMISSED** for lack of merit. The Final Assessment Notice dated July 14, 2004 assessing petitioner of deficiency documentary stamp taxes (inclusive of penalties and interest) is hereby **AFFIRMED**.
>
> Accordingly, petitioner is **DIRECTED TO PAY** respondent the amounts of **TWO HUNDRED TWENTY NINE MILLION ONE HUNDRED**

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TWENTY TWO THOUSAND TWO HUNDRED ELEVEN PESOS AND 12/100 (P229,122,211.12) representing deficiency documentary stamp tax for the year 2001, plus 20% delinquency interest per annum, pursuant to Section 249 of the NIRC.

SO ORDERED."

"**IN VIEW OF THE FOREGOING**, petitioner's 'Motion for Reconsideration' of the Court's Decision dated August 2, 2007 is hereby **DENIED**.

SO ORDERED."

The undisputed facts as culled from the Decision[1] of the Second Division of the Court of Tax Appeals, are briefly narrated as follows:

Petitioner is a corporation duly organized and existing under and by virtue of Philippine laws with principal address at the Metrobank Plaza, Sen. Gil Puyat Avenue, Makati City. It is engaged in the business of expanded commercial banking and the business of a trust company, which includes providing services such as deposit products, loans and trade finance, domestic and foreign fund transfers, treasury, foreign exchange, trading and remittances, trust services incident to its operation as a bank. Among its many financial products, petitioner offers regular savings account, time deposits and savings account called "UNISA", as acronym for Universal Savings Account or Uni-Savings Account. It issues to its clients Savings Passbook for the regular savings accounts, UNISA Passbook for the UNISA account, and Certificate of Time Deposit for time deposits.

Respondent is the head of the Bureau of Internal Revenue (BIR), the government agency charged with the assessment and collection of all national internal revenue taxes, fees and charges and the enforcement of all forfeitures, penalties, and fines connected therewith.

Petitioner filed a Petition for Review before the Second Division questioning the Final Assessment Notice (FAN) issued by herein respondent against it for deficiency documentary

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[1] *Metropolitan Bank & Trust Company vs. Commissioner of Internal Revenue*, CTA Case No. 7144, August 2, 2007

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stamp taxes on petitioner's UNISA accounts for the taxable year 2001. It is petitioner's contention that its UNISA account is not a certificate of deposit, contrary to the assessment of respondent, because:

1. UNISA does not have a maturity date;
2. Petitioner does not promise to pay at a specific maturity date;
3. UNISA does not impose penalty for early withdrawal;
4. UNISA is not entitled to high interest rate at the outset;
5. UNISA is a savings deposit account; and
6. The subsequent enactment of R.A. 9243 would mean that the additions were not previously subject to tax.

After trial on the merits, the Second Division rendered on August 2, 2007 the assailed Decision dismissing petitioner's "Petition for Review" for lack of merit and accordingly directed petitioner to pay the amounts of P229,122,211.12, representing its deficiency documentary stamp taxes for the taxable year 2001, plus twenty percent (20%) delinquency interest *per annum*, pursuant to Section 249 of the National Internal Revenue Code (NIRC) of 1997. Likewise, petitioner's "Motion for Reconsideration" filed on August 29, 2007 was denied through a Resolution dated December 13, 2007.

Hence, this recourse filed on January 11, 2008.

In a *Manifestation* filed on April 23, 2008, petitioner submitted copies of its Statement of Assets, Liabilities and Networth (SALN)[2] for the year ending December 31, 2005.

On April 29, 2008, petitioner filed another *Manifestation* informing this Court *En Banc* that it had availed of the provisions of Republic Act No. 9480, otherwise known as the Tax Amnesty Program of 2007 and paid the corresponding computed amnesty tax of P88,549,049.10 on September 21, 2007. Petitioner likewise manifested that when it filed this instant *Petition for Review* with the Court *En Banc*, it submitted copies of the following documents to prove its availment of the R.A. 9480, *viz*:

[2] Annex "A", Manifestation, *Rollo*, page 148

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1. Tax Amnesty Return[3] (BIR Form No. 2116);
2. Notice of Availment of Tax Amnesty[4];
3. Tax Amnesty Payment Form[5] (BIR Form No. 0617); and
4. Development Bank of the Philippines' BIR Payment Slip[6]

In a Resolution dated June 3, 2008, this Court ordered petitioner to submit the originals/certified true copies of the originals of its SALN, Income Tax Return for the taxable year 2005, Audited Financial Statements for the year ended December 31, 2005, Tax Amnesty Return, Notice of Availment, Tax Payment Form, and the receipt evidencing its payment of the corresponding tax amnesty liability.

In its *Compliance with Motion* and *Compliance* filed on June 12, 2008 and June 30, 2008, respectively, petitioner attached the following documents:

1. Original copy of its Statement of Assets, Liabilities, and Networth for the year ending December 31, 2005;
2. Original copy of its Tax amnesty Return (BIR Form No. 2116);
3. Original copy of the Notice of Availment of Tax Amnesty;
4. Original copy of its Tax Amnesty Payment Form (BIR Form No. 0617);
5. Certified True copy of the Development Bank of the Philippines' BIR Tax Payment Deposit Slip;
6. Certified True copies of its Annual Income Tax Return for the year 2005; and
7. Certified True Copies of its Audited Financial Statements for the year ended December 31, 2005.

Upon receipt of the aforementioned documents, this case was submitted for decision on July 28, 2008.

In a long line of cases submitted to this Court for consideration pertaining to the same or similar issues, this Court has resolved that taxpayers found to have fully complied with the documentation requirements of R.A. 9480 are entitled to the immunities as found under Section 6 thereof.

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[3] Annex "C", Petition for Review, *Rollo*, page 65
[4] Annex "D", *supra*, page 66
[5] Annex "E", *supra*, page 67
[6] Annex "F", *supra*, page 68

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Section 6 of R.A. 9480, in relation to Department of Finance Department Order No. 29-07, August 15, 2007, provides for the submission of the required documents before a taxpayer seeking amnesty can be entitled to the immunities claimed, to wit:

> "SEC. 6. *Immunities and Privileges.* –
>
> xxx xxx xxx
>
> All these immunities and privileges shall not apply where the person failed to file a **SALN and the Tax Amnesty Return**, or where the amount of net worth as of December 31, 2005 is proven to be understated to the extent of thirty percent (30%) or more, in accordance with the provisions of Section 8 hereof."
>
> "RULE III
> AVAILMENT AND PAYMENT OF AMNESTY
>
> Sec. 6. Method of Availment of Tax Amnesty. –
>
> xxx xxx xxx
>
> 1. Payment of Amnesty Tax and Full Compliance. - Upon filing of the Tax Amnesty Return in accordance with Sec. 6 (2) hereof, the taxpayer shall pay the amnesty tax to the authorized agent bank or in the absence thereof, the Collection Agents or duly authorized Treasurer of the city or municipality in which such person has his legal residence or principal place of business.
>
>   The RDO shall issue sufficient Acceptance of Payment Forms, as may be prescribed by the BIR for the use of - or to be accomplished by – the bank, the collection agent or the Treasurer, showing the acceptance by the amnesty tax payment. **In case of the authorized agent bank, the branch manager or the assistant branch manager shall sign the acceptance of payment form.**
>
>   **The Acceptance of Payment Form, the Notice of Availment, the SALN, and the Tax Amnesty Return shall be submitted to the RDO, which shall be received only after complete payment. The completion of these requirements shall be deemed full compliance with the provisions of RA 9480**." (*Emphasis supplied*)

From the foregoing provisions of law, petitioner must present the original or certified true copies of the following documents:

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1. Acceptance of Payment Form which must be signed by the branch manager or assistant branch manager, in case of payment through an authorized agent bank;
2. Notice of Availment;
3. Statement of Assets, Liabilities and Net Worth which does not show understatement of net worth as of December 31, 2005 to the extent of 30% or more;
4. Tax Amnesty Return; and
5. Full payment of the amnesty tax payable.

After evaluating the documents presented, the Court finds the same to be complete and in order. Petitioner duly complied with the requirements in availing of the tax amnesty, pursuant to Section 5 of R.A. No. 9480, which provides thus:

"SEC. 5. *Grant of Tax Amnesty.* — Except for the person or cases covered in Section 8 hereof, any person, whether natural or juridical, may avail himself of the benefits of tax amnesty under this Act, and pay the amnesty tax due thereon, based on his networth as of December 31, 2005 as declared in the SALN as of said period, in accordance with the following schedule of amnesty tax rates and minimum amnesty tax payments required:

xxx xxx xxx

(b) Corporations

(1) With subscribed capital of above P50 Million — 5% or P500,000, whichever is higher

xxx xxx xxx"

The effect thereof is stated under Section 6(a) of the same law, *viz*:

"**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 additions 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." (*Emphasis supplied*)

WHEREFORE, premises considered, petitioner's *Petition for Review* filed on January 11, 2008 is hereby deemed **WITHDRAWN**, and the above-captioned case is considered **CLOSED** and **TERMINATED**, subject to the provisions of Republic Act No. 9480.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice