REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ENCORE RECEIVABLE MANAGEMENT, INC., Petitioner,	**CTA CASE NO. 10449**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 1 3 2022 4:00 pm

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RESOLUTION

Before the Court is petitioner's **Motion for Reconsideration (Re: Resolution dated 18 March 2022)**, filed on March 31, 2022, with respondent's **Comment/Opposition [To Petitioner's Motion for Reconsideration (Re: Resolution dated 18 March 2022) dated 31 March 2022]**, filed through registered mail on April 22, 2022 and received by this Court on May 5, 2022.

On March 18, 2022, the Court issued a Resolution, dismissing the instant Petition for Review with Motion for Suspension of Collection of Taxes for lack of jurisdiction.

In the present motion, petitioner moves for reconsideration of the said Resolution on the ground that a belated submission of the Secretary's Certificate granting authorization to a representative constitutes substantial compliance with the requirements provided in Sections 4 and 5 of Rule 7 of the Revised Rules of Court

Petitioner submits that in a number of cases, the Court has excused the non-compliance with the requirement as to the certificate of non-forum shopping after a belated submission of the certification.

Further, petitioner contends that at the time of filing the petition, the Secretary's Certificates dated December 3, 2020 were already apostilled but the same could not be submitted at the time.

Petitioner also avers that the requirement of verification is not a jurisdictional requirement, while the Certification of Non-Forum shopping is designed to promote and facilitate the orderly administration of justice.

According to petitioner, it has already submitted to the Court a copy of the apostilled Secretary's Certificates dated December 3, 2020 when it filed a Motion with Leave of Court (To Admit Attached Comment to Respondent's Answer and Attached Apostilled Copy of the Secretary's Certificates dated 3 December 2020). Petitioner avers that the Court took cognizance of the Apostilled Secretary's Certificate when it rendered its November 18, 2021 Resolution granting the above motion.

Petitioner also reiterates that the Secretary's Certificates were already apostilled during the time that the Petition for Review was filed, although not readily available for submission to this Court. Further, in substantial compliance with the procedural requirements, petitioner submits the original copy of the apostilled Secretary's Certificates dated December 3, 2020 which grants Mr. Roland Ngo the authority to file the Petition for Review and sign the Verification and Certification of Non-Forum Shopping.

Thus, petitioner prays that the Court (1) reconsider the Resolution promulgated last March 18, 2022 dismissing the instant case; (2) admit in evidence, in the interest of substantial justice the attached original apostilled Secretary's Certificates dated December 3, 2020 which establishes the authority granted to Mr. Roland Ngo to institute the instant case on behalf of petitioner and to sign the Verification and Certification of Non-Forum Shopping; (3) schedule a Commissioner's Hearing for the presentation of the apostilled Secretary's Certificates dated December 3, 2020; and (4) reinstate petitioner's Petition for Review.

In his comment, respondent submits that the issue raised in the instant motion has been thoroughly discussed and resolved by this Court in the Resolution dated March 18, 2022. Respondent avers that in this instant Motion, petitioner merely reiterated its arguments/contentions raised in its Comment to Respondent's Answer which were already taken into consideration by this Court in the questioned Resolution. Hence, there being no new matter or substantial issue raised in the present Motion for Reconsideration, respondent posits that there is no reason to reverse the questioned Resolution dismissing the Petition for Review for lack of jurisdiction.

Respondent contends that while petitioner tried to correct this error by attaching the original apostilled Secretary's Certificate to the instant Motion, he strongly maintains that this does not automatically denote substantial compliance. To reiterate, defective certification is not curable by its subsequent correction. And while it is true that in some cases, the Supreme Court has considered belated submission as substantial compliance, it did so only on sufficient and justifiable grounds that compelled a liberal approach. However, in this case, petitioner failed to provide any reasonable cause.

According to respondent, petitioner's allegation that it intends to submit the original apostilled Secretary's Certificate as part of Mr. Roland Ngo's testimony once a commissioner's hearing is scheduled is not a justifiable reason that would merit the application of the substantial compliance rule. To reiterate, the rules are clear that the valid authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the initiatory pleading.

Lastly, respondent reiterates and emphasizes that it is not only the authority to sign the verification and certification against forum shopping that is embodied in the subject Secretary's Certificate. Also included therein is the authority of Mr. Roland Ngo to file the Petition for Review on behalf of petitioner. Consequently, for failure to attach the apostilled Secretary's Certificate at the time of the filing of the instant Petition for Review, Mr. Roland Ngo is deemed to have instituted it on his own and not on behalf of the petitioner. According to respondent, this Court correctly dismissed the case as it did not acquire jurisdiction over the person of the real-party-in interest, aside from petitioner's failure to comply with the rules on verification and certification against forum shopping.

Considering petitioner's explanation and submission of the original copy of the apostilled Secretary's Certificates dated December 3, 2020 which grants Mr. Roland Ngo the authority to file the Petition for Review and sign the Verification and Certification of Non-Forum Shopping, the Court grants the instant motion, in the higher interest of justice. As there is no showing that respondent suffered a material injury or that his cause was prejudiced when petitioner failed to submit the original apostilled Secretary's Certificates promptly, we are of the view that the ends of justice will be better served if the instant motion for suspension of collection of taxes is determined on the merits, after full opportunity is given to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections.[1]

Accordingly, the Court **recalls** and **sets aside** the Resolution dated March 18, 2022, dismissing the instant case; **admits** the original apostilled Secretary's Certificates dated December 3, 2020 attached to the instant motion; and **reinstates** the Petition for Review. For purposes of expediency, the scheduling of a Commissioner's Hearing for the presentation of the apostilled Secretary's Certificates dated December 3, 2020 shall be dispensed with.

To recall, the Court received on January 12, 2021 a Petition for Review with Motion for Suspension of Collection of Taxes, which petitioner filed by registered mail on December 18, 2020.

In the Resolution dated February 10, 2021, the Court set for hearing the Motion for Suspension of Collection of Taxes.

To support its Motion for Suspension of Collection of Taxes, petitioner presented its lone witness, Mr. Roland Ngo, petitioner's authorized representative, during the hearing held on March 1, 2021. In the Order dated March 1, 2021, the Court granted petitioner a period of five (5) days from March 8, 2021 within which to file a Formal Offer of Evidence (FOE) and Memorandum to support its Motion for Suspension of Collection of Taxes. The Court also granted respondent the same period within which to file Comment to the formal offer of evidence and Memorandum in connection with the

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[1] *Tiangco, et al. vs. Land Bank of the Philippines,* G.R. No. 153998, October 6, 2010, citing *Heirs of Victoriana Villagracia vs. Equitable Banking Corporation,* G.R. No. 136972, March 28, 2008.

instant motion. The said order further stated that, upon receipt of the comment and memorandum, or expiry of the period for filing thereof, the FOE and Motion for Suspension of Collection of Taxes shall be submitted for resolution.

On March 15, 2021, petitioner filed its Formal Offer of Evidence (filed by Petitioner Encore Receivable Management Inc. relative to the Motion for Suspension of Collection of Taxes) and its Memorandum, while on March 22, 2021, respondent filed through registered mail his Comments/Objections (to Respondent's Formal Offer of Evidence), which the Court received on May 20, 2021.

Thereafter, on May 17, 2021 and May 20, 2021, the Court received respondent's Answer (with Special and Affirmative Defenses) and Opposition to Motion for Suspension of Collection of Taxes and respondent's Memorandum (To the Petitioner's Motion to Suspend Collection of Taxes), respectively.

In the Resolution dated June 16, 2021, the Court noted petitioner's Memorandum, respondent's Answer (with Special and Affirmative Defenses) and Opposition to Motion for Suspension of Collection of Taxes, and respondent's Memorandum (to the Petitioner's Motion to Suspend Collection of Taxes). In the same Resolution, respondent's request for dismissal of the case incorporated in his Answer (with Special and Affirmative Defenses) and Opposition to Motion for Suspension of Collection of Taxes was set for hearing on July 19, 2021 and the resolution of petitioner's FOE, Motion for Suspension of Collection of Taxes, and respondent's request for dismissal of the case incorporated in his Answer (with Special and Affirmative Defenses) and Opposition to Motion for Suspension of Collection of Taxes was held in abeyance.

On July 15, 2021, petitioner filed its Motion with Leave of Court (To Admit Attached Comment to Respondent's Answer and Attached Apostilled Copy of the Secretary's Certificate dated 3 December 2020).

During the hearing held on July 19, 2021, the Court noted the manifestation of petitioner's counsels that petitioner is willing to post a bond in support of the latter's Motion for Suspension of Collection of Tax. Further, considering the manifestation of the counsels for respondent that respondent has no witness to present in support of his request for dismissal of the case and also no witness to present in support of his opposition to petitioner's Motion for Suspension of Collection of Taxes, the parties were given twenty (20) days or until August 8, 2021 to file their supplemental memoranda.

On October 8, 2021, the Court received respondent's Opposition (To Petitioner's Motion with Leave of Court to Admit Attached Comment to Respondent's Answer and Attached Apostilled Copy of the Secretary's Certificate dated 3 December 2020).

On November 2, 2021, petitioner filed its Manifestation (Petitioner's Filing of Supplemental Memorandum). Thereafter, the Court received on November 5, 2021 petitioner's Supplemental Memorandum, which was filed through registered mail on October 27, 2021.

Subsequently, the Court granted on November 18, 2021 petitioner's Motion with Leave of Court (To Admit Attached Comment to Respondent's Answer and Attached Apostilled Copy of the Secretary's Certificate dated 3 December 2020) and admitted the attached Comment. As to the other matters raised by the parties, the Court held that the same can be better threshed out when respondent's request for dismissal is already submitted for resolution.

In the Resolution dated December 14, 2021, the Court, considering the filing of petitioner's Supplemental Memorandum, without respondent's supplemental memorandum, per Records Verification dated October 6, 2021, deemed petitioner's Motion for Suspension of Collection of Taxes, incorporated in the Petition for Review, submitted for resolution. In the same Resolution, the Court noted petitioner's Manifestation (Petitioner's Filing of Supplemental Memorandum).

The Court shall proceed to address petitioner's **Formal Offer of Evidence (filed by Petitioner Encore Receivable Management Inc. relative to the Motion for Suspension of Collection of Taxes)**, filed on March 15, 2021, with respondent's **Comments/Objections (to Respondent's Formal Offer of Evidence)**, filed through registered mail on March 22, 2021 and received by this Court on May 20, 2021.

Acting on petitioner's formal offer of evidence, with respondent's comment, the Court **ADMITS** Exhibits **"P-25", "P-26", "P-27", "P-27-a", "P-28", "P-28-a", "P-31"**, and **"P-31-a"**, subject to this Court's final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in this case.

With the admission of the abovementioned exhibits, petitioner is deemed to have rested its case insofar as petitioner's **Motion for Suspension of Collection of Taxes**, incorporated in its Petition for Review, is concerned.

Accordingly, the Court shall now resolve petitioner's motion for suspension of collection of taxes.

In its motion, petitioner alleges that it has the right to protect its property from an invalid assessment being conducted by respondent especially since he did not observe due process following his failure to serve the Final Assessment Notice (FAN) on petitioner. Petitioner contends that unless a Temporary Restraining Order (TRO) and/or a Writ of Preliminary Injunction is issued by the Court to enjoin respondent from executing the Warrant of Distraint and/or Levy (WDL) arising from an invalid assessment, petitioner stands to suffer injustice and serious damage. According to petitioner, it must be emphasized that the tax assessed against it is of a significant amount (i.e., ₱39,058,218.41) which, if garnished against petitioner's assets, would affect petitioner's business operations. Petitioner states that it is ready and willing to file a bond executed to respondent enjoined, in an amount to be fixed by the Court, to the effect that petitioner will pay to respondent all the damages the latter may sustain by reason of the injunction or temporary restraining order if the Court should finally decide that petitioner was not entitled thereto.

Petitioner also reiterates in its memorandum that the issuance of the WDL has no legal basis considering that the assessment is void for failure to comply with due process and for being issued beyond the prescriptive period to assess as provided by law. Further, it contends in its supplemental memorandum that it raises questions as to the validity of the assessment and should not be taken very lightly, i.e. (a) respondent's failure to serve the Final Assessment

Notice/Formal Letter of Demand to petitioner ("FAN/FLD"); (b) prescription; and (c) violation of due process.

Respondent opposes the motion and submits that the prayer for issuance of TRO to prohibit respondent from collecting the assessed taxes must be denied for being misplaced, erroneous and bereft of factual and legal basis. According to respondent, the issues by which petitioner is anchoring its motion, namely, that petitioner failed to receive the FLD/FAN; that petitioner was denied due process by respondent; and that petitioner will suffer business reverses cannot support a motion for suspension of collection of tax. Respondent contends that petitioner's allegation that he failed to serve the FLD/FAN is bereft of merit. He also argues that petitioner failed to demonstrate that its operation will be jeopardized if a suspension order is not issued. Respondent maintains that the assessment against petitioner has already attained finality and that considering the application for a suspension order is merely an ancillary remedy and the same relies for its existence on the survival of the main action, the application for suspension should fail.

In his memorandum, respondent reiterates the foregoing arguments and contends that the WDL dated November 18, 2020, which was received by petitioner, bears petitioner's registered address, and that the said address was similarly reflected in the FLD dated December 23, 2020 issued by respondent. He also avers that when the FLD/FAN with Details of Discrepancy dated December 23, 2019 was served upon petitioner on December 26, 2019, it was well within the ten (10)-year prescriptive period prescribed for the assessment of taxes for the taxable year 2016. Further, respondent argues that a perusal of petitioner's Audited Financial Statements, which was attached to the Petition for Review, would show that it has enough cash to settle the deficiency tax assessments in the total amount of ₱39,058,218.40. Lastly, he maintains that the prevailing rule is that the courts should avoid issuing a writ of preliminary injunction that would in effect dispose of the main case without trial.

Section 218 of the National Internal Revenue Code of 1997, as amended, states:

> "SEC. 218. *Injunction not Available to Restrain Collection of Tax.* – No court shall have the authority to grant an injunction to restrain the collection of any

national internal revenue tax, fee or charge imposed by this Code."

Nevertheless, Section 11 of Republic Act (RA) No. 1125[2], as amended by RA No. 9282 authorizes the Court to suspend the collection of tax if such collection would jeopardize the interest of the government and/or taxpayer, to wit:

> "No appeal taken to the CTA from the decision of the Commissioner of Internal Revenue or the Commissioner of Customs or the Regional Trial Court, provincial, city or municipal treasurer or the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture, as the case may be, shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction of his tax liability as provided by existing law: *Provided, however,* That **when in the opinion of the Court the collection by the aforementioned government agencies may jeopardize the interest of the Government and/or the taxpayer the Court at any stage of the proceeding may suspend the said collection and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount with the Court**." (*Emphasis supplied*)

In relation thereto, Sections 1 and 2 of Rule 10 of the Revised Rules of Court of Tax Appeals (RRCTA) provide:

> "SECTION 1. *No suspension of collection of tax, except as herein prescribed.* – No appeal taken to the Court shall suspend the payment, levy, distraint, or sale of any property of the taxpayer for the satisfaction of tax liability as provided under existing laws, except as hereinafter prescribed.
>
> SEC. 2. *Who may file.* – Where the collection of the amount of the taxpayer's liability, sought by means of a demand for payment, by levy, distraint or sale of any

[2] An Act Creating the Court of Tax Appeals.

property of the taxpayer, or by whatever means, as provided under existing laws, may jeopardize the interest of the Government or the taxpayer, an interested party may file a motion for the suspension of the collection of the tax liability."

Thus, for a motion for suspension of collection of tax to be granted, petitioner must first prove that it would be jeopardized by the said collection. Without such proof, the Court may not grant the same. As held by the Supreme Court in *Commissioner of Internal Revenue vs. Court of Tax Appeals (First Division), et al.*,[3]:

"Aside from the requisite tax liability, Section 11, as worded, further requires the taxpayer to prove that the 'collection by the aforementioned government agencies may jeopardize the interest of the Government and/or the taxpayer.' It is only when all of these requirements are satisfied that the CTA may issue a Suspension Order, which remedy is **ancillary to the CTA's exercise of its appellate jurisdiction to review 'any decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts'** as provided under the first paragraph of Section 11."

Upon review of the records, this Court resolves to **grant** the instant motion for suspension of collection of taxes.

In proving that petitioner's business operations will suffer irreparable injury if a TRO is not issued, petitioner's witness, Mr. Ngo, testified by way of judicial affidavit, as follows:

"10. Q: Going back to the reasons why you were called before this Court, why is the issuance of a TRO necessary for Encore Receivable Management, Inc.?

A: The issuance of a TRO is necessary because the

[3] G.R. Nos. 210501, 211294, & 212490, March 15, 2021.

Bureau of Internal Revenue (BIR), on 18 November, through Assistant Regional Director, Greg M. Buhain, already issued a WDL and directed the Arrears Management Section of Revenue Region No. 8A – Makati City to distrain/levy the goods, chattels or effects, other personal property and sell and/or forfeit so much of such personal/real property in favor of the Republic of the Philippines to satisfy in full the sum of Thirty Nine Million Fifty Eight Thousand Two Hundred Eighteen Pesos and 41/100 (Php39,058,218.41). If the BIR will proceed with the implementation of the WDL, which may include among others the freezing or garnishment of its bank account, the Company will not be able to pay its current operating expenses and financial obligations that are due and demandable. Further, implementation of the WDL will adversely affect the cash position of the Company.

xxx xxx xxx

17. Q: You have mentioned in your answer in Question no. 9 that Company will not be able to pay its current operating expenses and financial obligations that are due and demandable, why did you say so?

A: Based on the 1 January 2019 to 30 November 2019 Audited Financial Statements, Encore Receivable Management, Inc. only has Php7,818,000 balance in the Cash account and this will not be sufficient to pay the Company's operating expenses and financial obligations that are due and demandable.

18. Q: What are the actual operating expenses and financial obligations that are due and demandable and the cash balance of Encore Receivable Management, Inc.?

A: Based on the actual transactions for the period December 2019 to November 2020, Encore Receivable Management, Inc. paid Php326,450,888.74 or an average of Php27.2M per month for the direct cost and operating expenses. In addition to the financial obligations amounting to Php186,855,000 stated in the 1 January 2019 to 30 November 2019 Audited Financial Statements, the Company's financial obligations that are due and demandable as of 30 November 2020 is Php53,333,579. Finally, Encore Receivable Cash balance as of 30 November 2020, is Php11,019,104.

xxx xxx xxx

25. Q: What will be the impact, if there be any, in case there will be no TRO that will be issued?

A: Without the TRO, the financial impact is huge. The Company may not be able to pay its direct cost and operating expenses and financial obligations during the enforcement of the garnishment. I would like to emphasize that the bulk of the operating expenses are for payment of compensation and employee benefits, rent, utilities, professional fees and other services. On the other hand, current liabilities are for payment of trade payables, due to related parties and taxes payables.

Encore Receivable Management, Inc. is primarily engaged in providing business process outsourcing ('BPO') and support services (i.e. accounts receivable and debt collections) to Encore Receivable Management. Since operating a BPO is one of the most demanding industries with regard to manpower outsourcing, it is important that the benefits accorded the employees be given in a timely manner. To emphasize, based on the 1 January 2019 to 30 November 2019 Audited Financial Statements, compensation and benefits represents 56% or Php243,411,000 of the total operating expenses of Php434,132,000. Further, out of the Php326,450,888.74 actual direct and operating expenses, as mentioned in my answer in Question no. 18, Php247,969,485.41 or 76% represents compensation and benefits expense."

On the other hand, respondent counters that petitioner failed to present convincing arguments to prevent the strict application of the general rule of no suspension of tax collection. He contends that petitioner has failed to demonstrate that its operation will be jeopardized if a suspension order is not issued.

Respondent argues that a perusal of petitioner's Audited Financial Statement would show that it has enough cash to settle the deficiency tax assessments in the total amount of ₱39,058,218.40. Specifically, petitioner's Statement of Financial Position as of November 30, 2019 reflects Trade Receivables in the amount of ₱599,892,000.00 in addition to its cash account balance in the amount of ₱7,818,000.00. Relative thereto, Note 12 of said Financial Statement states that the aforesaid amount of receivables are due from ERMI-Head Office and Concentrix CVG Customer Management Group, Inc., which will mature in 75 days and will be settled in cash or applied in advances. Respondent avers that it may be gleaned therefrom that petitioner's trade receivables have already been settled in cash as early as March or April 2019.

Thus, respondent concludes that even if petitioner's alleged operating expenses of ₱434,132,000.00 will be taken into account, petitioner will still have enough cash to pay the tax assessment in the total amount of ₱39,058,218.40. Respondent adds that, surely, the issuance and execution of the WDL will not cripple the petitioner's business and there is no risk of incurring business reverses.

The Court finds that petitioner was able to establish that it is at risk of incurring business reverses should respondent proceed with enforcing or collecting the said assessments in the total amount of ₱39,058,218.40. As may be gleaned from petitioner's testimonial and documentary evidence, the issuance and execution of the WDL will impede petitioner's business operations in that it only had₱7,818,000.00 balance in the Cash account, which is insufficient to pay its operating expenses and financial obligations that are due and demandable. Petitioner may not be able to pay its direct cost and operating expenses and financial obligations during the enforcement of the garnishment.

As mentioned in the Judicial Affidavit of petitioner's witness, based on the actual transactions of petitioner for the period December 2019 to November 2020, it paid ₱326,450,888.74 or an average of ₱27.2 million per month for the direct cost and operating expenses. In addition to the alleged financial obligations amounting to ₱186,855,000 stated in the 1 January 2019 to 30 November 2019 Audited Financial Statements, it was mentioned that petitioner's alleged financial obligations that are due and demandable as of November 30, 2020 is ₱53,333,579.00. Finally, as testified by petitioner's witness, its Cash balance as of November 30, 2020, is only ₱11,019,104.00. Accordingly, respondent's collection of deficiency tax assessments in the total amount of ₱39,058,218.40 may jeopardize petitioner's interest.

Lastly, this Court notes the manifestation of petitioner's counsel that petitioner is willing to post a bond in this case. Pertinent portions of the said manifestation are herein quoted for ready reference, *viz:*

"ATTY. TUICO:
Your Honors, we will not be presenting any witnesses for today.

JUSTICE CASTAÑEDA:
All right so that being the case is the petitioner willing to file a bond in this case? There is a Motion to Suspend Collection.

ATTY. GALANO:
Yes, Your Honors we are willing to file a bond.

JUSTICE CASTAÑEDA:
All right do you have any objections to the grant of the motion with the filing of the bond?

ATTY. TUICO:
No objection Your Honors however we would like to submit our arguments in the Answer Your Honors.

JUSTICE CASTAÑEDA:
All right. So in that connection you just... why don't you just file your respective Memorandum in support of your case, we'll give you fifteen (15) days each?

ATTY. GALANO:

Your Honors, we would like to manifest that we already filed our Memorandum in relation to the Motion for Suspension of Collection of Taxes on March 22, Your Honors.

JUSTICE CASTAÑEDA:

Do you wish to reply thereto or should we just submit this for resolution?

ATTY. TUICO:

Your Honors we wish to submit this for resolution.

JUSTICE CASTAÑEDA:

All right. That being the case just await our resolution then before we set this for Pre-Trial."[4]

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (Re: Resolution dated 18 March 2022)** is **GRANTED**. Accordingly, the Resolution dated March 18, 2022, dismissing the instant case for lack of jurisdiction is **RECALLED and SET ASIDE.** The original apostilled Secretary's Certificates dated December 3, 2020 attached to the instant motion are **ADMITTED** and the Petition for Review is **REINSTATED**. However, the scheduling of a Commissioner's Hearing for the presentation of the apostilled Secretary's Certificates dated December 3, 2020 shall be dispensed with, for purposes of expediency.

Further, the Court **RESOLVES** petitioner's **Formal Offer of Evidence (filed by Petitioner Encore Receivable Management Inc. relative to the Motion for Suspension of Collection of Taxes)** in accordance with the foregoing findings as to the admissibility of petitioner's exhibits.

Moreover, petitioner's **Motion for Suspension of Collection of Taxes**, incorporated in its Petition for Review, is **GRANTED**. Accordingly, respondent and any of the BIR officers and/or employees are prohibited from issuing, executing, enforcing, implementing or otherwise giving effect to any Warrant of Distraint and/or Levy and Garnishment, and from collecting or attempting to collect on the basis of the subject assessments in this case, and from

[4] Pages 2 to 3 of the Transcript of Stenographic Notes Taken During the Hearing Held on July 19, 2021.

doing any and all acts relative thereto, until further orders from this Court.

Petitioner is **ORDERED** to post a cash or surety bond equivalent to the amount claimed of **₱27,877,667.11**[5], within **ten (10) days** from receipt of this resolution.

The bond must be a GSIS bond, or a bond from other reputable surety company duly accredited by the Supreme Court with the required supporting documents specified in Supreme Court A.M. No. 04-7-02-SC, dated July 20, 2004, namely:

1. Certified copy of a valid Certificate of Accreditation and Authority issued by the Office of the Court Administrator;

2. Copy of the Certificate of Compliance with Memorandum Circular No. 1-77, dated March 1, 1977 which suspended Circular No. 66 of the Insurance Commission;

3. Proof of payment of legal fees under the Rules of Court and the documentary stamp tax (thirty centavos [₱0.30] on each four pesos [₱4.00] or fractional part thereof, of the premium charged, pursuant to Section 187 Title VII of RA No. 8424) and value-added tax (VAT) under the National Internal Revenue Code of 1997;

4. Photocopy of the Certificate of Accreditation and Authority issued by the Court Administrator containing the photograph of the authorized agent (after presentation to the Clerk of Court of the original copy thereof as copy of the Certificate of Accreditation and Authority containing the photograph of the agent); and

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[5] Computed as follows [based on par. 8, Petition for Review with Motion for Suspension of Collection of Taxes, vis-a-vis par. 11, Answer (With Special and Affirmative Defenses) and Opposition to Motion for Suspension of Collection of Taxes]:

Basic Deficiency Income Tax	₱ 20,863,656.40
Basic Deficiency Value-Added Tax	1,989,862.94
Basic Deficiency Expanded Withholding Tax	5,024,147.77
Total Basic Deficiency Taxes	₱ 27,877,667.11

5. Secretary Certificate containing the specimen signatures of the agents authorized to transact business with the courts.

Further, the said bond must be a continuing bond, *viz*, the bond shall remain effective until the above-captioned case is finally decided, resolved, or terminated by the Court without the necessity of renewing the same on a yearly basis, or being dependent on the payment of a renewal premium, pursuant to Section 179 of The Insurance Code (Republic Act No. 10607).

Failure to post the required cash or surety bond and submit the above-stated requirements within ten (10) days from receipt of this resolution will warrant the setting aside of the suspension of collection of taxes as herein granted.

Meanwhile, set this case for pre-trial conference on August 22, 2022 at 1:30 p.m.

The parties and their counsels are hereby ordered to be present at the pre-trial and to file with the Court and serve on the adverse party at least three (3) days before the date of the pre-trial their respective pre-trial briefs.

Furthermore, the parties are hereby ordered to submit the judicial affidavits of their witness not later than five (5) days before the pre-trial, pursuant to Section 2 of the Judicial Affidavit Rule (A.M. No. 12-8-8-SC).

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice