CTA Form No. 8

19-000556-0071

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10214

ORIENTAL MERCHANTS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF JUDGMENT BASED ON COMPROMISE AGREEMENT

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. WILMER B. DEKIT
ATTY. JOANA Q. BILONGILOT
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2nd Building, 313 Sen. Gil Puyat Avenue
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Unit 10A, Country Space I Building
Sen. Gil Puyat Avenue
Makati City

GREETINGS:

You are hereby notified by these presents that on **February 14, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 17, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

ORIENTAL MERCHANTS, INC., Petitioner,	CTA CASE NO. 10214
	Members:
- versus -	**DEL ROSARIO**, *P.J., Chairperson*, **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 14 2025, 2:55 PM

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JUDGMENT BASED ON COMPROMISE AGREEMENT

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner Oriental Merchants, Inc.'s (**petitioner**'s/**OMI**'s) "Motion for Approval of Compromise Agreement"[1] (**Motion for Approval of CA**) filed on 11 August 2022, with the following supporting documents, among others:

1. Certified true copy of petitioner's "Judicial Compromise Offer"[2], showing approval of the CA by the National Evaluation Board (**NEB**);

2. Certified true copy of petitioner's "Certificate of Availment (Compromise Settlement)"[3];

3. Original copy of the duly executed and signed "Compromise Agreement"[4];

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1 Division Docket, Volume II, pp. 808-814.
2 Id., Volume IV, p. 2000.
3 Id., p. 1999.
4 Id., Volume II, pp. 877-882.

4. Payment Forms (Bureau of Internal Revenue [**BIR**] Form No. 0605) and Bank of the Philippine Islands (**BPI**) Debit Memos as proofs of payment[5];

5. Copy of petitioner's letter request for offer of compromise addressed to the BIR Revenue Region No. 8B – South NCR's Chief of Legal Division, Atty. Wilmer B. Dekit, filed on 15 April 2021"[6]; and,

6. Certified true copy of the Secretary's Certificate[7] dated 02 April 2021 executed by petitioner authorizing its President, Ma. Ana G. Zubiri, to sign and execute the CA on petitioner's behalf, among others.

To recall, in the hearing for the presentation of respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) evidence on 29 October 2024[8], his or her counsel manifested that respondent would no longer present any witnesses as a Certificate of Availment had already been signed by the NEB. Petitioner's counsel confirmed and joined the said manifestation.

Accordingly, the Court recalled and set aside the Resolution dated 31 January 2023, which previously denied petitioner's Motion for Approval of CA due to its failure to submit the original or certified true copy of its Certificate of Availment (without prejudice to the re-filing of the same upon submission of the required CA).

In the same hearing, the Court granted the parties thirty (30) days, or until 28 November 2024, to file the original or certified true copy of the Certificate of Availment. It further declared that upon filing of the same, the Motion for Approval of CA shall be considered submitted for the Court's resolution anew. On 26 November 2024[9], petitioner submitted a certified true copy of the CA.

We resolve.

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[5] Id., pp. 883-894.
[6] Id., pp. 817-818.
[7] Id., p. 895.
[8] See Minutes of the Hearing and Order, both dated 29 October 2024, id., pp.1992 and 1993-1994, respectively.
[9] See Petitioner's "Compliance (to the Order dated 29 October 2024)", id., pp. 1996-1998.

As the parties had set forth in their CA, the instant offer for compromise is grounded upon the doubtful validity of the assessment. Revenue Regulations (**RR**) No. 30-2002[10], as amended by RR No. 08-2004[11], prescribes the minimum compromise rates for an offer of compromise premised on doubtful validity, *viz*:

> ...
>
> **SEC. 4. PRESCRIBED MINIMUM PERCENTAGES OF COMPROMISE SETTLEMENT.** – The compromise settlement of the internal revenue tax liabilities of taxpayers, reckoned on a per tax type assessment basis, shall be subject to the following minimum rates based on the basic assessed tax:
>
> ...
>
> 2. **For cases of "doubtful validity"** – A minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.[12]
>
> ...

The assessed taxes include Expanded Withholding Tax (**EWT**), Income Tax (**IT**), Value-Added Tax (**VAT**), and Documentary Stamp Tax (**DST**). The Judicial Compromise Offer indicates a compromise rate of 100% for EWT and 40% for IT, VAT and DST. The Court observes that the compromise rate applied is effectively above the prescribed minimum of forty percent (40%) of the basic assessed taxes and thus finds the same in order.

Per the Judicial Compromise Offer[13], the compromise amount of ₱1,967,307.75 is broken down as follows:

Tax Type	Basic Tax	Compromise Rate	Compromise Amount
EWT	₱191,604.00	100% EWT	₱1,967,307.75
IT	₱3,795,423.93	40% other taxes	
VAT	₱424,687.44		
DST	₱219,139.00		

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10 Revenue Regulations Implementing Sections 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.

11 Revenue Regulations Implementing Sections 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. 7-2001 and 30-2002.

12 Emphasis in the original text.

13 Supra at note 2.

Moreover, the records bear a certified true copy of petitioner's Judicial Compromise Offer approved by the NEB, pursuant to Section 204(A)[14] of the National Internal Revenue Code (**NIRC**) of 1997, as amended. Following a thorough examination of the same, the Court finds the NEB's approval in order.

The pertinent portion of the CA reads:

> ...
>
> **NOW, THEREFORE**, for in consideration of the foregoing premises, the **PARTIES** hereto agreed as follows:
>
> > **Section 1. Compromise Amount.** In order to settle the above-mentioned case, **OMI** has offered and the **BIR** has accepted the total compromise amount of ***Pesos: One Million Nine Hundred Sixty-Seven Thousand Three Hundred and Seven & 75/100 (₱1,967,307.75)***.
> >
> > **Section 2. Submission to the Honorable CTA.** This Agreement fully signed by the **PARTIES** shall be submitted to the Honorable CTA in the CTA Case No. 10214 and the **PARTIES** undertake to perform any and all acts and submit any and all documents required by the Honorable CTA to render a Judgment by Compromise Agreement in CTA Case No. 10214.
> >
> > **Section 3. Effectivity of the Agreement.** This Agreement shall take effect after signing thereof by the **PARTIES**. This **Agreement** shall thereafter remain in force and effect until completion and fulfillment of the covenants and undertakings of the **PARTIES** hereto.
> >
> > **Section 4. Deliverables of the PARTIES upon approval of this Agreement.** Upon approval by the parties of the terms of this **Agreement**, **OMI** undertakes to submit to the **BIR** proof of payment of the Compromise Amount and this **Agreement** duly signed by its authorized representative. Upon

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[14] 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.

...

Where the basic tax involved exceeds One million pesos (₱1,000,000) 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.** (Emphasis supplied) receipt of the Compromise Amount, the **BIR** undertakes to execute and deliver to OMI any and all documents as may be required to effectively and fully implement the provisions of this **Agreement**, withdrawing and cancelling the FAN and FDDA.

Section 5. Authority to Enter Compromise Agreement. The **BIR,** through Commissioner Caesar R. Dulay, warrants that [he] has the necessary authority and capacity under the law to enter, sign and execute this **Agreement**, and to deliver its implementing documents.

OMI warrants that **MA. ANA G. ZUBIRI** is duly authorized by its Board of Directors and has the necessary authority and capacity to enter, sign and execute this **Agreement**, and to deliver payment of the Compromise Amount.

Section 6. Full and Final Settlement. This **Agreement** is executed by the **PARTIES** for the purpose of [amicably] settling and ending CTA Case No. 10214. Upon performance by **OMI** of its obligations under Section 4 hereof, the **BIR** recognizes the full satisfaction of the supposed tax liability, including any alleged deficiency interest, surcharge and other penalties thereon in connection with CTA Case No. 10214.

Section 7. Defects in this Agreement. In the event that defects are noted in this **Agreement**, the **PARTIES** mutually agree to perform any and all acts necessary to rectify or correct the deficiency, defect or imperfection. However, in case the deficiency, defect, or imperfection is not or cannot be rectified or corrected:

1. The amount already paid by **OMI** to the **BIR** shall be deemed a tax credit which shall be applied against the internal revenue taxes for which **OMI** may be directly liable, as allowed, under existing rules and regulations; and

2. The proceedings of the CTA Case No. 10214 shall continue and the discussions pursuant to the disapproved **Agreement** cannot be used by the **PARTIES** in said proceeding unless consent of the other party be obtained.

Section 8. No Admission of Liability. The execution of this **Agreement** shall not constitute or be interpreted in any way as an admission or acknowledgment of error or liability by the **PARTIES.**

> **Section 9. Non-Performance.** The **PARTIES** agree that the failure of any party to comply with any of the terms and conditions of this **Agreement** shall entitle the aggrieved party to file an appropriate motion/action for the immediate implementation and execution of the terms and conditions of this **Agreement**.
>
> **Section 10. Signature and Counterparts.** This **Agreement** may be signed in counterparts, each of which when executed and delivered, shall constitute a duplicate original, but all of which shall be taken together as a single instrument. Until and unless each party has received a counterpart hereof signed by the other party hereto, the **Agreement** shall have no effect and no party shall have any right or obligation hereunder.[15]

...

Upon review of the parties' CA and the documents submitted in support thereof, the Court finds the CA in order and compliant with the provisions of the NIRC of 1997, as amended.

WHEREFORE, with the foregoing, the Court hereby **RESOLVES** to:

(1) **GRANT** petitioner Oriental Merchants, Inc.'s "Motion for Approval of Compromise Agreement" filed on 11 August 2022;

(2) **APPROVE** the Compromise Agreement entered into by the parties and **ADOPT** the same as the Court's Judgment herein;

(3) **ENJOIN** the parties to faithfully comply with all the terms and conditions of the said Compromise Agreement; and,

(4) **CLOSE** and **TERMINATE** the case.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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15 Emphasis and italics in the original text.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice

<u>CERTIFICATION</u>

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