REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

HONDA CARS PHILIPPINES, INC.,
Petitioner,

~*versus*~

COMMISSIONER OF INTERNAL REVENUE ,
Respondent.

CTA CASE No. 7168

Members:

Acosta, *P.J.,*
Bautista, and
Casanova, *J.J.*

Promulgated:

MAY 29 2009 ; 3:05 pm

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RESOLUTION

This resolves the following:

1. petitioner's Motion (Re: Availment of Tax Amnesty) filed on March 2, 2009;

2. respondent's Comment (To Petitioner's Motion Re: Availment of Tax Amnesty) filed on March 4, 2009 with Motion to Defer Presentation of Evidence;

3. petitioner's Formal Offer of Evidence (Re: Availment of Tax Amnesty) filed on May 4, 2009; and

4. respondent's Comment (Re: Petitioner's Formal Offer of Evidence for Availment of Tax Amnesty) filed on May 19, 2009.

In its Motion, petitioner prayed that the instant Petition be dismissed on the ground that the tax assessments subject thereof have already been deemed cancelled, withdrawn or abated by its availment of tax amnesty under Republic Act No. 9480;

and that the one-year period for a party other than the BIR or its agents to initiate a proceeding to establish the understatement of the declared net worth had already lapsed.

In his comment to the motion, respondent pointed out that the resolution of petitioner's motion is material to the continuance of the presentation of his evidence. Hence, he prayed that the presentation of his evidence be deferred pending the resolution of petitioner's motion.

In its Formal Offer of Evidence (Re: Availment of Tax Amnesty) petitioner prayed for the admission of the following exhibits as evidence, which were duly marked and identified in a hearing held on April 24, 2009, *viz*:

Exhibit	**Nature**
II	Notice of Availment of Tax Amnesty
II-1	Signature of Mr. Alfredo Magpayo
II-2	BIR stamp of receipt and date
JJ	Tax Amnesty Return
JJ-1	Signature of Mr. Alfredo Magpayo
JJ-2	BIR stamp of receipt and date
KK	Statement of Assets, Liabilities and Net Worth
KK-1	Signature of Mr. Alfredo Magpayo
KK-2	BIR stamp of receipt and date
LL	Tax Amnesty Payment Form
LL-1	Signature of Mr. Alfredo Magpayo
LL-2	BIR stamp of receipt and date
MM	Payment Deposit Slip
MM-1	Signature of Ms. Vicenta Balarbar
MM-2	Machine Validation

Respondent has no objection to the admission of exhibits formally offered in evidence by petitioner.

After due consideration of petitioner's Formal Offer of Evidence as well as respondent's comment thereto, this Court hereby resolves to **ADMIT** the foregoing **Exhibits** as evidence of petitioner in line with its availment of tax amnesty.

We shall now resolve petitioner's Motion (Re: Availment of Tax Amnesty).

A tax amnesty is a general pardon or the intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law. It partakes of an absolute forgiveness or waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate.[1]

The tax amnesty granted under RA 9480 covers all national internal revenue taxes for the taxable year 2005 and prior years but does not cover the following persons or cases,[2] *viz*:

> 1. Withholding agents with respect to their withholding tax liabilities;
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> 2. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
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> 3. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;
>
> 4. Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;
>
> 5. Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapter III and IV of Title VII of the Revised Penal Code; and
>
> 6. Tax cases subject of final and executory judgment by the courts.

Petitioner is a qualified tax amnesty applicant. The disputed income tax, value-added tax and excise tax assessment for the fiscal year ended March 31, 2000 fall within the coverage of the tax amnesty program; and the instant case is likewise not among the exceptions enumerated under Section 8 of RA 9480. Judicious scrutiny of the admitted evidence reveals that petitioner has duly complied with all

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[1] Commissioner of Internal Revenue vs. Marubeni Corp. G.R. No. 137377, December 18, 2001.
[2] Sections 1 and 8 of RA 9480.

the requirements in RA 9480, as implemented by Department of Finance Order (DO) No. 29-07 and Revenue Memorandum Circular (RMC) 19-2008.[3]

Additionally, more than one year had already elapsed from the time petitioner availed the tax amnesty on February 28, 2009, there has yet no proceeding initiated against petitioner with respect to its availment of the program as testified by Ms. Vicenta F. Balarbar in April 24, 2009 hearing. Necessarily, the tax amnesty availed of by petitioner can no longer be questioned since RA 9480 allows only a one-year period following the date of the filing of the tax amnesty return and the statement of assets, liabilities and networth (SALN) for the party other than the BIR or its agents to initiate a proceeding in order to establish the understatement of the declared networth.

In ***Philippine Banking Corporation (now Global Business Bank, Inc.) vs. Commissioner of Internal Revenue***,[4] the Supreme Court set aside the decision of the Court of Tax Appeals En Banc which ordered petitioner therein to pay the deficiency tax considering the availment of the tax amnesty program by the bank. Accordingly, full compliance by the bank with the tax amnesty program, it shall thereafter be immune from the payment of taxes, and additions thereto, as well as the appurtenant civil, criminal or administrative penalties under the NIRC of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.

Therefore, petitioner's Motion (Re: Availment of Tax Amnesty) is hereby **GRANTED** while respondent's Motion to Defer Presentation of Evidence is hereby **DENIED** for being moot and academic.

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[3] Both DO 29-07, particularly Section 6 thereof, and RMC 19-2008 required the following forms/documents to be filed in line with the availment of tax amnesty program, namely: 1) Notice of Availment of Tax Amnesty; 2) Statement of Assets, Liabilities and Networth (SALN); 3) Tax Amnesty Return; and 4) Payment Form.

[4] G.R. No. 170574, January 30, 2009.

WHEREFORE, the disputed deficiency excise tax, income tax, and value-added tax assessment in the total amount of P589,944,109.02, inclusive of increments, for the fiscal year ended March 31, 2000 subject of the Petition for Review is hereby **CANCELLED AND SET ASIDE**.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice