REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

B. BRAUN MEDICAL SUPPLIES, INC., *Petitioner,*	**CTA CASE NO. 10330**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 2 2 2023 10:58 a.m.

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JUDGMENT ON COMPROMISE AGREEMENT

For the Court's resolution is the parties' Joint Motion to Render Judgment Based on Compromise with the attached Compromise Agreement filed on November 17, 2022.

It may be recalled that on October 28, 2021, the present case was referred for mediation to the Philippine Mediation Center- Court of Tax Appeals (PMC-CTA) to which the parties were ordered to appear on December 2, 2021.

On February 9, 2022, a Request for Extension was submitted by the PMC-CTA requesting that the parties be granted a final extension of thirty (30) days or until March 1, 2022 to give the parties additional time within which to reach an amicable settlement. In a Resolution dated March 4, 2022, this Court granted the Request for Extension.

On May 26, 2022, the parties filed their Joint Manifestation and Motion to Suspend Proceedings praying for the suspension of the proceedings in the present case until they have finalized the amicable settlement thereof. On July 12, 2022, this Court issued a Resolution granting the parties' Motion to Suspend Proceedings and allowed the parties an additional period of three (3) months from July 1, 2022 or until October 1, 2022 within which to reach an amicable settlement.

On September 30, 2022, the parties filed their Joint Manifestation and Motion. The parties manifested that they have good reason to believe that the National Evaluation Board will grant petitioner's application for tax compromise and that its official approval is forthcoming. Accordingly, they move for additional time to submit the approved compromise offer and the signed compromise agreement between the parties.

In a Resolution dated October 13, 2022, this Court denied the parties' Joint Manifestation and Motion and ordered the reinstatement of the court proceedings in the present case.

On November 10, 2022, a Pre-trial Order was issued.

On November 17, 2022, the parties filed their present Joint Motion to Render Judgment Based on Compromise with the attached Compromise Agreement.

In a Resolution dated December 9, 2022, this Court ordered the parties to submit, within thirty (30) days from notice thereof, by either the petitioner or respondent whichever comes first, proof of petitioner's full payment of the judicial compromise amount.

On January 11, 2023, petitioner filed its Compliance attaching thereto the following documents:

1. Summary Report of Processed Payments issued by Deutsche Bank;
2. Filing Reference No. 292100045021222;
3. eFPS Payment Form with Filing Reference No. 292100045021222;
4. eFPS Payment Details with Reference No. 292100045021222;
5. Payment Form (BIR Form No. 0605) with Reference No. 292100045021222;
6. Filing Reference No. 292100045021402;
7. eFPS Payment Form with Filing Reference No. 292100045021402;
8. eFPS Payment Details with Reference No. 292100045021402;
9. Payment Form (BIR Form No. 0605) with Reference No. 292100045021402;
10. Filing Reference No. 292100045021539;
11. eFPS Payment Form with Filing Reference No. 292100045021539;
12. eFPS Payment Details with Reference No. 292100045021539; and
13. Payment Form (BIR Form No. 0605) with Reference No. 292100045021539.

Meanwhile on December 5, 2022, the PMC-CTA submitted to this Court a Mediator's Report with indication of successful settlement and complete compromise agreement. Attached to the report are the following:

1. Agreement to Mediate and Selection of Mediator dated December 13, 2021;
2. Selection of Mediator dated December 13, 2021;
3. Secretary's Certificate executed by Regina A. Santos, Assistant Corporate Secretary of B. Braun Medical Supplies, Inc. dated August 19, 2020;
4. Special Power of Attorney dated December 14, 2020 executed by Glen A. Geraldino, Regional Director of BIR Revenue Region 8B, South NCR;
5. Appearance of Parties dated January 5, 2022;
6. Compromise Agreement dated October 12, 2022;
7. Summary Report of Processed Payments issued by Deutsche Bank (computer print-out);
8. Filing Reference No. 292100045021222 dated December 9, 2021 (computer print-out);
9. eFPS Payment Form with Filing Reference No. 292100045021222 dated December 9, 2021 (computer print-out);
10. eFPS Payment Details with Reference No. 292100045021222 dated December 9, 2021 (computer print-out);
11. Payment Form (BIR Form No. 0605) with Reference No. 292100045021222 dated December 9, 2021 (computer print-out);
12. Filing Reference No. 292100045021402 dated December 9, 2021 (computer print-out);
13. eFPS Payment Form with Filing Reference No. 292100045021402 dated December 9, 2021 (computer print-out);
14. eFPS Payment Details with Reference No. 292100045021402 dated December 9, 2021 (computer print-out);
15. Payment Form (BIR Form No. 0605) with Reference No. 292100045021402 dated December 9, 2021 (computer print-out);
16. Filing Reference No. 292100045021539 dated December 9, 2021 (computer print-out);
17. eFPS Payment Form with Filing Reference No. 292100045021539 dated December 9, 2021 (computer print-out);
18. eFPS Payment Details with Reference No. 292100045021539 dated December 9, 2021 (computer print-out); and
19. Payment Form (BIR Form No. 0605) with Reference No. 292100045021539 dated December 9, 2021 (computer print-out); and
20. Certificate of Availment (Compromise Settlement) dated October 12, 2022 (certified true copy).

THE COURT'S RULING

In *Republic of the Philippines v. Heirs of Cruz, et. al.,*[1] the Supreme Court emphatically held that:

> "Before approving a compromise, courts are thus bound to strictly scrutinize the same to ensure that the compromise *and* its execution are compliant with the law and consistent with procedural rules."

In obedience to the foregoing, this Court shall now scrutinize the Compromise Agreement dated October 12, 2022 and the documents submitted by the parties in support thereof.

The Compromise Agreement, in part, reads as follows:

COMPROMISE AGREEMENT

The undersigned parties, assisted by their respective counsels,

Petitioner B. BRAUN MEDICAL SUPPLIES, INC. (herein 'B. BRAUN' or "petitioner"), a domestic corporation duly organized and existing under the laws of the Philippines with business address at 15th Floor, Sun Life Centre 5th Avenue, Bonifacio Global City, 1634 Taguig City, represented by its Chief Finance Officer, **Rey Richard G. Caparas**, authorized representative of herein petitioner as evidenced by the Secretary's Certificate dated August 19, 2020, attached as **Annex "A"**;

-and-

Respondent COMMISSIONER OF INTERNAL REVENUE (herein "CIR" or "respondent"), represented by the **HON. LILIA CATRIS GUILLERMO**, Chief of the Bureau of Internal Revenue (BIR) with principal office at the BIR National Office Building, Agham Road, Diliman Quezon City;

B. BRAUN and CIR shall be collectively referred to as **"Parties."**

AGREE as follows:

WHEREAS, a dispute arose out of the **Final Decision on Disputed Assessment (FDDA)** dated February 19, 2020, issued by respondent CIR against petitioner, wherein petitioner challenges the Income Tax (IT), Value Added Tax (VAT) and Expanded Withholding Tax (EWT) deficiency assessment in the amount of Sixty Seven Million Ninety Eight Thousand Ninety

[1] G.R. No. 208956, October 17, 2018.

Two Pesos and 44/100 (**Php 67,098,092.44**), inclusive of interest, for taxable year 2005.

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. **Judicial Compromise Amount**
   In order to settle the above-mentioned case, **petitioner B. BRAUN** has offered and the BIR has accepted the total payment of **PHP 8,054,171.21**, representing **40% compromise** of the basic tax deficiency for **IT** and **VAT** and **100% compromise** of the basic tax deficiency for **EWT**.

2. **Submission to the Honorable CTA**
   This agreement fully signed by the **parties** shall be submitted for the approval of the Honorable Court of Tax Appeals in **CTA Case No. 10330**. The **parties** undertake to perform any and all acts, and submit any and all documents required by the Honorable CTA to be able to render a **Judgment by Compromise Agreement** in the said case.

3. **Effectivity of the Agreement**
   This agreement shall take effect and bind the **parties** upon approval by the Honorable CTA. This **agreement** shall thereafter remain in force and effect until completion and fulfillment of the covenants and undertaking of the **parties** hereto.

4. **Deliverables of the Parties upon approval of this Agreement by the Honorable CTA**
   Upon final approval by the Honorable CTA of this **Agreement**, the **respondent** undertakes to execute and deliver to the **petitioner** any and all documents as may be required to effectively and fully implement the provisions of this **agreement**, withdrawing and cancelling the **FDDA** dated **February 19, 2020.**

5. **Authority to Enter into Compromise Agreement.**
   Respondent, through the Hon. Commissioner **Lilia Catris Guillermo**, warrants that she has the necessary authority and capacity under the law to enter, sign, and execute this **agreement**, and to deliver its implementing documents upon its approval of the Honorable CTA.

   Mr. Rey Richard G. Caparas, is duly authorized by petitioner **B. Braun Medical Philippines, Inc.**, and has full legal capacity to enter, sign, and execute this **agreement**, and to deliver payment of the above-agreed additional amount.

6. **Full and Final Settlement.**
This **agreement** is executed by the **parties** for the purpose of amicably settling and ending **CTA Case No. 10330**. Upon approval by the Honorable CTA, respondent **CIR** recognizes the full satisfaction of the supposed tax liability of petitioner **B. Braun Medical Philippines, Inc.,** in connection with CTA Case No. 10330 and acknowledges that petitioner **B. Braun Medical Philippines, Inc.,** no longer has any tax liability whatsoever based upon, arising from or in connection with the particular subject of CTA Case No. 10330.

7. **Disapproval of this Agreement by the Honorable CTA.**
In the event that this **agreement** is disapproved by the Honorable CTA, the **parties** agree to a curing period of sixty (60) days from receipt of the Order/Resolution disapproving this agreement. During such curing period, the parties mutually agree to perform any and all acts necessary to rectify or correct the deficiency, defect or imperfection which caused its disapproval, and re-submit the rectified or corrected Agreement for approval of the Honorable CTA. However, in case the deficiency, defect or imperfection is not or cannot be rectified or corrected within the said curing period, or still not approved by the Honorable CTA after it is rectified or corrected by the parties:

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

b. The proceedings of CTA Case No. 10330 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.

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.**

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 with the Honorable CTA for the immediate implementation and execution of the terms and conditions of this Agreement or the judgment or order of the Honorable CTA approving the same.

10. Signatures 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.

x x x x x x x x x

Section 204(A) of the National Internal Revenue Code of 1997, as amended (1997 NIRC) 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.** *(Emphasis supplied)*

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

1. The application for compromise is based on either the doubtful validity of the tax assessment or 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 NEB which is composed of the respondent and his four (4) Deputy Commissioners, if the subject assessment exceeds One Million pesos (Php1,000,000.00) or where the settlement offered is less than the prescribed minimum rates.

Implementing the foregoing Section of the 1997 NIRC, 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 (RR) 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;
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> 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;
>
> 3. Civil tax cases being disputed before the courts;
>
> 4. Collection cases filed in courts;
>
> 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;
>
> xxx xxx xxx

The records of this case show that the application for compromise settlement was grounded on doubtful validity of respondent's tax assessment.

Section 3 of RR No. 30-2002, as amended, provides the instances when the ground of doubtful validity of assessment exists which include, *inter alia,* when "the assessment seems to be arbitrary in nature, appearing to be based on presumptions and there is reason to believe that it is lacking in legal and/or factual basis" or "assessments made based on the Best Evidence Obtainable Rule and there is reason to believe that the same can be disputed by sufficient and competent evidence."

In the Petition for Review filed with this Court on August 24, 2020, petitioner challenged the deficiency tax assessments all pertaining to taxable year 2005 based, among others, on the following:

1. The deficiency assessments are null and void because no Letter of Authority (LOA) was issued to petitioner when it transferred its business address to Taguig City prior to the issuance of the Final Decision on Disputed Assessment (FDDA);

2. The service of the FDDA on petitioner's incorporators for being improper, irregular, and in violation of petitioner's right to due process;

3. The BIR's mere comparison of petitioner's Alphalist and its Audited Financial Statements or Income Tax Return is tantamount to a naked assessment which lacks factual basis and is insufficient to support a valid assessment of undeclared income; and

4. The tax deficiency assessment arising from the non-withholding of tax on compensation, which appeared for the first time in the FDDA, also violated petitioner's right to due process.

In respondent's Answer to the Petition for Review, he maintains that:

1. Petitioner failed to submit all its supporting documents within 60 days from the time it allegedly filed its protest, hence the assessment is already final and executory;

2. The deficiency tax assessment issued against petitioner was issued pursuant to a valid LOA;

3. The principle of estoppel has already set in and petitioner is therefore precluded from assailing the validity of the issued assessments; and

4. Respondent has legal and factual bases when it assessed the petitioner.

The arguments put forth by the parties relative to the deficiency tax assessments readily show that the validity of the deficiency assessments was clearly put in issue. Accordingly, the first requisite under Section 204(A) of the 1997 NIRC pertaining to the ground of doubtful validity of the assessment is met.

As to the second requisite pertaining to the amount of compromise payment, the copy of the FDDA attached to the Petition for Review shows that respondent demanded the payment of the following amounts:

Type of Tax	Amount of Basic Deficiency Tax Assessed
Income Tax	₱ 15,719,650.35
Value-added Tax (VAT)	1,771,163.99
Expanded Withholding Tax (EWT)	1,057,845.47

Based on the submitted Compromise Agreement, petitioner paid a total of **₱8,054,171.21** representing 40% compromise of the basic tax deficiency for income tax and VAT and 100% compromise of the basic tax deficiency for EWT. The amounts paid were duly supported by Payment Forms (BIR Form No. 0605) as well as eFPS Payment Forms and Payment Details. The computation and payment of the amount of compromise settlement as shown above is thus in accordance with law and is deemed compliant with the second requisite.

As to the third requisite, the Court notes that there is sufficient compliance with the law by the submission of the certified true copy of the Certificate of Availment (Compromise Settlement) dated October 12, 2022 which states that petitioner's application for the compromise settlement of deficiency income tax, VAT and EWT has been approved by the National Evaluation Board (NEB).

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

WHEREFORE, the parties' Joint Motion to Render Judgment Based on Compromise is **GRANTED**.

Accordingly, the Compromise Agreement executed by the parties is **APPROVED**. The parties are strictly enjoined to faithfully comply with all the terms and conditions of the Compromise Agreement.

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

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Judgment were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Judgment were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice