REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CEVA ANIMAL HEALTH (PHILIPPINES), INC., *Petitioner,*	**CTA Case No. 10365** Members:
-versus-	**DEL ROSARIO**, *P.J., Chairperson,* **MANAHAN**, *and* **REYES-FAJARDO**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 10 2023 ; 8:17 A.M.

x- x

JUDGMENT BY COMPROMISE AGREEMENT

On July 1, 2022, petitioner filed its *Compliance (with Motion to Suspend Proceedings)*,[1] submitting therewith the following:

1. Original signed Compromise Agreement;[2]

2. BIR Payment Form No. 0605 and eFPS payment confirmation dated March 21, 2022 with payment reference number 292200046936696 for the payment of final withholding tax for taxable year 2010 amounting to Php445,912.53;[3]

3. BIR Payment Form No. 0605 and eFPS payment confirmation dated March 21, 2022 with payment reference number 292200046936298 for the payment of final withholding VAT for taxable year 2010 amounting to Php178,365.01;[4] and

4. Petitioner's Secretary's Certificate[5] dated March 2, 2022 authorizing Bryan M. Retales and Fricefel C. Ureta to

[1] Docket, pp. 218-222.
[2] Docket, pp. 223-224.
[3] Docket, pp. 225-227.
[4] Docket, pp. 228-230.
[5] Docket, p. 231.

sign the Judicial Compromise Agreement on behalf of petitioner.

On September 16, 2022, the parties filed their *Compliance (with Joint Motion for Additional Time to Submit)*,[6] submitting therewith petitioner's offer of compromise, dated June 30, 2021 using 10% compromise rate and the basis therefor.[7]

On October 12, 2022, the parties filed their *Joint Compliance,* submitting therewith the original Certificate of Availment.

In view of the submission of the required documents, we now proceed to analyze the Compromise Agreement and supporting documents.

The Compromise Agreement partly states:

> Undersigned parties, assisted by their respective counsel, CEVA ANIMAL HEALTH (PHILIPPINES), INC., with office address at 10th Floor, East Tower, Philippine Stock Exchange Center, Exchange Road, Ortigas Center, Barangay San Antonio, Pasig City and COMMISSIONER OF INTERNAL REVENUE, with office address at BIR National Office Building, Diliman, Quezon City
>
> **AGREE as follows:**
>
> WHEREAS, a dispute arose out of the collection of alleged final withholding tax, final withholding value-added tax and interest and the assessments upon which such collection is based covering taxable year 2010;
>
> 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. That Petitioner agrees to settle the alleged deficiency tax liability being disputed in the instant case by offering a compromise settlement at the rate of ten percent (10%) of the basic tax assessed amounting to **Six Hundred**

[6] Docket, pp. 252-261.
[7] Docket, pp. 262-268.

Twenty Four Thousand Two Hundred Seventy Seven and 54/100 Pesos;

Tax Type	Basic Tax	10% Compromise
Final Withholding Tax	P4,459,125.30	**P445,912.53**
Final Withholding VAT	1,783,650.12	**178,365.01**
TOTAL	**P6,242,775.42**	**P624,277.54**

2. That Petitioner had effected the payment of the above offer of compromise settlement at the rate of ten percent (10%) of the basic tax assessed amounting to **Six Hundred Twenty Four Thousand Two Hundred Seventy Seven and 54/100 Pesos** as evidenced by the following BIR Form 0605:

   xxx

3. That Respondent agrees to cancel and withdraw the Warrant of Distraint and/or Levy, as well as Warrants of Garnishment and/or other collection notices, if any, and the assessments upon which it is based involving alleged final withholding tax, final withholding value-added tax and interest for the taxable year 2010 upon the final approval of the National Evaluation Board;[8]

RULING OF THE COURT

Section 204(A) of the 1997 National Internal Revenue Code (NIRC), as amended, 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:

[8] Docket, pp. 223-224.

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."

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 respondent's assessment or the 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 National Evaluation Board (NEB) which is composed of the respondent and his four (4) Deputy Commissioners if the subject assessment exceeds One Million Pesos (Php1,000,000) or where the settlement offered is less than the prescribed minimum rates.

Implementing the foregoing section of the 1997 NIRC, as amended, Revenue Regulations (RR) No. 30-2002 dated December 16, 2002, as amended by RR No. 8-2004,[9] provides for the cases that may be compromised, as follows:

"SEC. 2. CASES WHICH MAY BE COMPROMISED. – The following cases may, upon taxpayer's compliance with the

[9] 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 Nos. 6-2000 and 7-2001. cm

basis set forth under Section 3 of these Regulations, be the subject matter of compromise settlement, viz:

1. Delinquent accounts;

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"

Generally, withholding tax cases may not be compromised, unless the taxpayer invokes provisions of law that cast doubt on the taxpayer's obligation to withhold. Considering that the instant compromise agreement involves Final Withholding Tax (FWT) and Final Withholding Value-Added Tax (FVAT), the Court finds it necessary to determine whether petitioner has invoked provisions of law that cast doubt on its obligation to withhold the FWT and FVAT, which would make the said assessments for deficiency taxes appropriate subjects of a compromise.

A perusal of the Preliminary Assessment Notice (PAN)[10] dated December 3, 2014 and the Formal Letter of Demand (FLD)[11] dated December 19, 2014 shows that the assessment for deficiency FWT and FVAT both arose from alleged Management Fees, amounting to Php14,863,751.00, resulting to alleged basic deficiency FWT of Php4,459,125.30 and basic deficiency FVAT of Php1,783,650.12. In the Details of Discrepancies,[12] it is merely stated that petitioner failed to submit proof that the services subject of the management fees was rendered outside the Philippines, hence it is being assessed

[10] Docket, p. 64.
[11] Docket, p. 70.
[12] Docket, pp. 65 and 71.

for deficiency FWT pursuant to Section 28(B)[13] of the 1997 National Internal Revenue Code (NIRC), as amended, and deficiency FVAT pursuant to RR No. 16-2005.

In its protest to the FLD, petitioner argues that the assessments failed to state the facts and the law on which it is based, since the assessments for FWT and FVAT were computed on the alleged management fees of Php14,863,751.00, but it was not explained how the BIR came up with such figure.

Petitioner also cites Sections 42 and 108 of the 1997 NIRC, as amended, which states:

> "SEC. 42. *Income from Sources Within the Philippines.* –
>
> (A) *Gross Income From Sources Within the Philippines.* – The following items of gross income shall be treated as gross income from sources within the Philippines:
>
> xxx
>
> (3) *Services.* – Compensation for labor or personal services performed in the Philippines;
>
> xxx
>
> (C) *Gross Income From Sources Without the Philippines.* – The following items of gross income shall be treated as income from sources without the Philippines:
>
> xxx
>
> (3) Compensation for labor or personal services performed without the Philippines;
>
> xxx
>
> SEC. 108. *Value-added Tax on Sale of Services and Use or lease of Properties.* –
>
> (A) *Rate and Base of Tax.* – There shall be levied, assessed and collected, a value-added tax equivalent to ten

---

[13] SEC. 28. Rates of Income Tax on Foreign Corporations. –
xxx
(B) Tax on Nonresident Foreign Corporation. –
(1) In General. – Except as otherwise provided in this Code, a foreign corporation not engaged in trade or business in the Philippines shall pay a tax equal to thirty-five percent (35%) of the gross income received during each taxable year from all sources within the Philippines, such as interests, dividends, rents, royalties, salaries, premiums (except reinsurance premiums) annuities, emoluments, or other fixed or determinable annual, periodic or casual gains, profits and income, and capital gains, except capital gains subject to tax under subparagraph 5(c): *Provided*, That effective January 1, 2009, the rate of income ctax shall be thirty percent (30%).

> percent (10%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties. *Provided,* That the President, upon the recommendation of the Secretary of Finance, shall effective January 1, 2006, raise the rate of value-added tax to twelve percent (12%) xxx
>
> xxx
>
> The phrase '**sale or exchange of service**' means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, xxx" (*Underscoring supplied*)

Petitioner states that the foregoing provisions show that services rendered outside the Philippines are not income from sources within the Philippines and are not subject to Philippine income tax and consequently, not subject to withholding tax. Likewise, services rendered outside the Philippines are not subject to VAT, and therefore not subject to FVAT.

In view of the foregoing, the Court finds that petitioner sufficiently invoked provisions of the law that cast doubt on its obligation to withhold FWT and FVAT on the alleged management fees.

As to the payment of the compromise settlement, the Court notes that the compromise settlement was only for 10% of the basic tax assessed, as shown below, which is less than the 40% rate required on cases involving doubtful validity of assessments.

Tax Type	Basic Tax	10% Compromise
Final Withholding Tax	P4,459,125.30	**P445,912.53**
Final Withholding VAT	1,783,650.12	**178,365.01**
TOTAL	**P6,242,775.42**	**P624,277.54**

There is no indication in the records that petitioner is suffering from financial incapacity which would justify the use of the 10% compromise rate. Thus, despite the approval of the said compromise by the NEB, the Court still ordered the parties to submit the basis for the use of the 10% compromise rate. This finds support in the Supreme Court Resolution in *Asia Renal Care Philippines, Inc. v. Commissioner of Internal Revenue,*[14] which required the submission of documents or

[14] G.R. No. 240180, June 23, 2021. *om*

evidence showing the basis of the compromise settlement, before acting thereon, to wit:

> xxx. The Court resolves to require the petitioner to SUBMIT, within ten (10) days from notice hereof, the following: (1) original or certified true copy of the Certificate of Availment of Compromise; (2) original or certified true copy of Availment of Abatement of Penalties; (3) original or certified true copy of the NEB approval of compromise; (4) original or certified true copy of the NEB approval of abatement; (5) basis of respondent's acceptance of Compromise Settlement [Doubtful Validity or Financial Incapacity]; (6) basis of respondent's acceptance of abatement of penalties; and (7) other relevant documents in support of items [5] and [6].

Further, under Article 1409 of the Civil Code, contracts whose cause, object or purpose is contrary to law, morals, good customs, public order or public policy are inexistent and void from the beginning. No court can ratify or approve a compromise agreement which is considered inexistent and void from the beginning.[15]

While compromise settlements are highly encouraged, this Court is not, and should not be, a mere rubber stamp[16] that mechanically or automatically approves compromise agreements, without validating whether the same are contrary to law, public order, public policy, morals and good customs.

To recall, under Section 204 of the 1997 NIRC, as amended, a lower compromise amount may be accepted, subject to the approval of the NEB, as follows:

> "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*)

The minimum percentages for compromise settlement are also prescribed in Section 4 of RR No. 30-02, which also

---

[15] *Strategic Alliance Development Corporation v. Radstock Securities Limited, et al.*, G.R. No. 178158, December 4, 2009 and *Luis Sison v. Philippine National Construction Corporation and Radstock Securities Limited*, G.R. No. 180428, December 4, 2009.
[16] *Strategic Alliance Development Corporation v. Radstock Securities Limited, et al.*, G.R. No. 178158, December 4, 2009 and *Luis Sison v. Philippine National Construction Corporation and Radstock Securities Limited*, G.R. No. 180428, December 4, 2009. cm

provides for the situation of accepting compromise rates lower than the prescribed rates, as follows:

> SECTION 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:
>
> 1. For cases of "financial incapacity" –
>
> xxx
>
> 2. For cases of "doubtful validity" – A minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.
>
> The taxpayer may, nevertheless, request for a compromise rate lower than forty percent (40%): Provided, however, that he shall be required to submit his request in writing stating therein the reasons, legal and/or factual, why he should be entitled to such lower rate: Provided, further, that for applications of compromise settlement based on doubtful validity of the assessment involving an offer lower than the minimum forty percent (40%) compromise rate, the same shall be subject to the prior approval by the NEB. (*emphasis supplied)*

Petitioner, in the letter[17] dated June 30, 2021, sets forth its arguments to justify the 10% compromise rate, as follows: that the collection of the alleged deficiency taxes has prescribed; that the collection is void for violation of due process; that the assessment is void for lack of authority of the BIR examiners; and, that the assessment is void for failure to state the facts and law on which the assessment is made.

The Court also notes that the FLD contains a mere reiteration of the PAN, and the Details of Discrepancies did not explain whether petitioner's arguments and supporting documents were considered in the issuance of the FLD. This makes the FLD and assessment notices susceptible to invalidity pursuant to *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[18] which stated that when the CIR rejects the taxpayer's explanations, he or she must give some reason for doing so.

---

[17] Re: Court Referred Mediation for the Settlement of the Assessment for 2010, docket, pp. 262-268.
[18] G.R. Nos. 201398-99, October 3, 2018.

Based on all the foregoing, the doubtful validity of the subject assessments was established, as well as the reason for accepting a compromise rate lower than 40%.

The letter dated June 30, 2021 also complied with Section 4, RR No. 30-2002, which required that the legal and/or factual basis for entitlement to a lower compromise rate must be stated in writing.

The subject compromise was also approved by the NEB, as evidenced by the original Certificate of Availment dated October 4, 2022, which was submitted to the Court on October 12, 2022.

Thus, the Court approves the Compromise Agreement.

In the case of *Far East Bank and Trust Co. et al. v. Trust Union Shipping Corp. et al.*,[19] the Supreme Court explained the effect of a compromise agreement, *to wit*:

> "**A compromise is a contract whereby the parties**, by making reciprocal concessions, **avoid litigation or put an end to one already commenced**. It is an accepted and desirable practice in courts of law and administrative tribunals. Settlement of disputes brought before the courts is, in fact, encouraged.
>
> It is settled that contracting parties may establish such stipulations, clauses, terms and conditions as they deem convenient, provided that these are not contrary to law, morals, good customs, public order, or public policy." (*Emphasis supplied*)

Further, in the case of *Conchita A. Sonley v. Anchor Savings Bank/Equicom Savings Bank*,[20] the Supreme Court ruled that once the compromise agreement is submitted to the Court and the latter has given its imprimatur thereof, it has the force and effect of a judgment, *to wit*:

> "Corollary thereto, once submitted to the court and stamped with judicial approval, a compromise agreement becomes more than a mere private contract binding upon the parties. Having the sanction of the court and entered as its determination of the controversy, it has the force and effect of any judgment."

---

[19] G.R. No. 154716, September 16, 2008.
[20] G.R. No. 205623, August 10, 2016.

WHEREFORE, the Compromise Agreement entered into by the parties is hereby **APPROVED** and this **Compromise Agreement** is hereby rendered in accordance therewith. The parties are enjoined to faithfully comply with all the terms and conditions of the aforesaid Compromise Agreement.

Accordingly, this case is now **CLOSED** and **TERMINATED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice