REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

HC CONSUMER FINANCE PHILIPPINES, INC., *Petitioner,*	**CTA Case No. 10757**
- versus -	Members: **MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** SEP 27 2024 3:30 p.m.

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JUDGMENT BASED ON COMPROMISE AGREEMENT

REYES-FAJARDO, *J.*:

For the Court's resolution are the following:

1) Respondent's "Urgent Omnibus Motion: (1) For Partial Reconsideration (Re: Resolution dated 31 May 2024); and Admit the Attached Judicial Affidavits of Mr. Carlos Arleen P. Balingit, Jr. and Mr. Leslie R. De Guzman" (**Urgent Omnibus Motion**) filed through registered mail on June 18, 2024 and received by the Court on June 24, 2024; and

2) Parties' "Joint Motion for Judgment Based on Compromise Agreement with Compliance" (**Joint Motion for Judgment on Compromise**) filed on June 25, 2024.

This case stems from HC Consumer Finance Philippines, Inc. (petitioner or HCCFPI)'s Petition for Review filed on February 7, 2022. Trial for the case is ongoing. On May 31, 2024, the Court resolved[1] HCCFPI's Formal Offer of Evidence (FOE), deemed petitioner to have rested its case, and proceeded to set the hearing for respondent's presentation of evidence on July 16, 2024.

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[1] Resolution date May 31, 2024, Docket – Vol. 11, pp. 5871-5874.

In relation thereto, on June 18, 2024, respondent Commissioner of Internal Revenue (CIR) filed the instant **Urgent Omnibus Motion** seeking partial reconsideration of the Court's resolution of petitioner's FOE and requesting for the admission of its witnesses' judicial affidavits.

Meanwhile, the parties executed a *Judicial Compromise Agreement*,[2] where the CIR formally accepted petitioners offer to pay **₱98,402,152.38** or **21.12%** of the total basic taxes assessed in the FLD as compromise for the settlement of the subject deficiency tax liability,[3] *viz.*:

JUDICIAL COMPROMISE AGREEMENT

This Compromise Agreement (the "Agreement") is made, by and between:

HC CONSUMER FINANCE PHILIPPINES, INC., a corporation duly organized and existing under Philippine laws, with principal office address at the 15th Floor, Ore Central, 9th Avenue corner 31st Street, Bonifacio Global City, Taguig City, hereinafter referred to as "**Taxpayer**," "**Home Credit**" represented by its Financial Controller, Mr. Carlos Arleen Balingit, Jr., as evidence[d] by the Secretary's Certificate dated 13 January 2023, attached as **Annex "A**;"

-and-

BUREAU OF INTERNAL REVENUE, hereinafter referred to as "**BIR**", with official station at the 5th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City, represented by the **Commissioner of Internal [Revenue], Hon. Romeo D. Lumagui, Jr.**, hereinafter referred to as the "**CIR**;"

The **Taxpayer** and the **BIR** shall be referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

Whereas, the Taxpayer is a domestic corporation duly registered with the Securities and Exchange Commission and has been authorized to carry on the business of a Financing Company in accordance with Republic Act No. 5980 and as amended by Republic

2 Unpaginated.
3 Par. 1, Judicial Compromise Agreement, unpaginated.

Act No. 8556, otherwise known as the Financing Company Act of 1998. Home Credit is registered with the BIR with Taxpayer Identification No. 008-453-991[;]

Whereas, the BIR issued an Amended Formal Letter of Demand dated December 6, 2021 ("FLD"), signed by the Regional Director of BIR Revenue Region No. 8B-South NCR, which assessed the Taxpayer deficiency Income Tax ("IT"), Value-Added [T]ax ("VAT"), Expanded Withholding of VAT ("EWT")[,] Final Withholding [T]ax ("FWT"), Final Withholding of VAT ("FWVAT") and [Compromise] Penalties for taxable year 2017, inclusive of increments, as follows:

Tax Type	Basic Tax	Increments	Total
IT	₱171,722,116.35	₱76,555,130.88	₱248,277,247.24
VAT	195,433,081.83	141,124,102.41	336,557,184.24
EWT	7,017,129.00	3,335,923.90	10,353,052.90
FWT	65,443,050.47	31,111,446.90	96,554,497.37
FWVAT	26,177,220.19	12,444,578.76	38,621,798.95
Late filing of FWVAT		[72,627.20]	72,627.20
Compromise penalty	100,000.00		100,000.00
Total	**₱465,892,597.84**	**₱264,643,810.05**	**₱730,536,407.90**

Whereas, the Taxpayer filed with the Honorable Court of Tax Appeals ("CTA") a Petition for Review ("Petition"), entitled *HC Consumer Finance Philippines, Inc. v. Commissioner of Internal Revenue,* docketed as CTA Case [N]o. 10757 [(]the "Case"), and pending before the Honorable CTA's Third Division, seeking to (a) annul, review, reverse and set aside the subject deficiency tax assessments in the total amount of Seven Hundred Thirty Million Five Hundred Thirty-Six Thousand Four Hundred Seven and 90/100 Pesos (₱730,536,407.90) inclusive of interest, surcharge, and other penalties covering Home Credit's taxable year ending in December 31, 2017; and (b) issue an order directing the CIR to issue the corresponding Authority to Cancel Assessment[;]

Whereas, the Taxpayer has submitted to the BIR an application for compromise of the tax assessment subject of the Case in accordance with the applicable rules and regulations;

Whereas, the BIR has evaluated the Taxpayer's application for compromise and believes that a judicial compromise to allow immediate tax collection and to put an end to litigation, as provided in Article 2028 of the Civil Code of the Philippines ("Civil Code"), serves the interest of the Government;

Whereas, the Parties have agreed to enter into an amicable settlement pursuant to the provisions of the Civil Code, the Tax Code, jurisprudence, relevant decisions of the Honorable CTA and Supreme Court, and relevant rules and regulations.

Whereas, Section 204(A) of the Tax Code gives the CIR power to compromise the payment of taxes when there is "[a] reasonable doubt as to the validity of the claim against the taxpayer exists," and the Honorable CTA has issued rulings allowing judicial compromises similar to the instant case[;]

Whereas, the Parties for the purpose of avoiding and putting an end to a protracted, expensive and mutually prejudicial litigation, have agreed to amicably settle the abovementioned Case, upon terms and conditions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the above premises, the Parties agree as follows:

1. *Compromise Amount* - In order to settle the abovementioned Case, the Taxpayer has offered and the BIR has accepted the total payment of Ninety-Eight Million Three Hundred Seventy-Two Thousand One Hundred Fifty-Two pesos and 39/100 (₱98,372,152.39), the details of which are shown below:

Tax Type	Basic Tax	% of Offer	Offer
IT	₱171,722,116.35	34.33%	₱58,917,192.52
VAT	195,433,081.83	0.00%	-
EWT	7,017,129.00	40.00%	2,806,851.60
FWT	65,443,050.47	40.00%	26,177,220.19
FWVAT	26,177,220.19	40.00%	10,470,888.08
Compromise	100,000.00	0.00%	-
Total	₱465,892,597.84	**21.11%**	**₱98,402,152.39**

2. *Submission to the Honorable CTA* - This Agreement, duly signed by the Parties and with proof of the approval by the National Evaluation Board, shall be submitted for the approval of the Honorable CTA in CTA Case No. 10757, HC Consumer Finance Philippines, Inc. v. Commissioner of Internal Revenue. 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] on Compromise Agreement in the said Case.

3. *Effectivity of the Agreement* - This Agreement shall take effect and bind the Parties upon upproval 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.

4. *Deliverables of the Parties upon Approval of the Agreement by the Honorable CTA* - Upon approval by the Honorable CTA of this Agreement, the BIR undertakes to execute and deliver to the

Taxpayer any and all documents as may be required to effectively and fully implement the provisions of this Agreement. The BIR shall withdraw and cancel the FLD dated December 6, 2021 and all other documents issued in relation or pursuant to the said documents.

5. *Authority to Enter into Compromise* - The BIR warrants that CIR Romeo D. Lumagui, Jr. has the necessary authority and capacity under the law to enter into, sign, and execute this Agreement, and to comply with the covenants and undertakings therein on behalf of the BIR upon approval of the Honorable CTA.

The Taxpayer warrants that its authorized representative is duly authorized by the Board of Directors of the Taxpayer and has full legal capacity to enter into, sign, and execute this Agreement, and to comply with the covenants and undertakings therein on behalf of the Taxpayer upon approval by the Honorable CTA.

6. *Full and Final Settlement* - This Agreement is executed by the Parties for the purpose of amicably settling and ending the Case. Upon approval by the Honorable CTA, the BIR recognizes the full satisfaction of the supposed tax liabilities of the Taxpayer in connection with the Case and acknowledges that the Taxpayer no longer has any tax liability whatsoever based upon, arising from, or in connection with the particular subject of the Case.

7. *Disapproval of the 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 period, the Parties mutually agree to perform any and all acts necessary to rectify or correct the deficiency, defect, or imperfection that caused the disapproval of this Agreement, 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 with the said curing period, or if the Agreement is still not approved by the Honorable CTA after it has been rectified or corrected by the Parties:

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

b. The proceedings of the Case shall continue and the discussions pursuant to the disapproved Agreement cannot be used by the Parties in the said proceedings without the consent of the other Party.

8. *Non-admission of Liability* - The Parties agree that the execution of this Agreement shall not in any way be construed as an admission of liability with respect to the matters raised in the Case.

9. *Entire Agreement* - This Agreement constitutes the entire agreement between the Parties. It shall not be amended or superseded unless in writing duly signed by both Parties.

10. *Good Faith Undertaking* - The Parties undertake to perform all obligations and undertakings in good faith, and shall not willfully take or omit to take any action that would frustrate the spirit and intent underlying this Agreement.

11. *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 of the Honorable CTA approving the same.

12. *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, this Agreement shall have no effect and no Party shall have any right or obligation hereunder.

IN WITNESS WHEREOF, the Parties have hereunto set their hands at the date and place first abovementioned.

HC CONSUMER FINANCE PHILIPPINES, INC[.]

By:

[signed]
MR. CARLOS ARLEEN BALINGIT, JR.
Financial Controller

Assisted By:

ANGARA ABELLO CONCEPCION REGALA & CRUZ
Counsel for HC Consumer Finance Philippines, Inc.

[signed]
ERIC R. RECALDE

[signed]
JACQUELINE ANN A. TAN

[signed]
KAYE GEOZEN T. EBUENGAN

BUREAU OF INTERNAL REVENUE

By:

[signed]
ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

Pursuant to the agreement, petitioner paid the total offer amount *via* BIR electronic filing and payment system (eFPS), as evidenced by the respective Payment Forms (*BIR Form No. 0605*) and filing reference numbers[4] corresponding to each tax type.

On June 4, 2024, respondent[5] issued a *Certificate of Availment*,[6] confirming that petitioner availed of the benefit under Section 3.1 of Revenue Regulations RR No. 30-02[7] (*i.e.*, compromise settlement based on doubtful validity of the assessment) and that petitioner's application for compromise settlement was approved by the National Evaluation Board (NEB).

Thus, on June 25, 2024, the parties filed the present **Joint Motion for Judgment on Compromise** for the approval of the parties' Judicial Compromise Agreement and for a judgment to be rendered on the basis thereof.

We **GRANT** the parties' **Joint Motion for Judgment on Compromise** and **APPROVE** the **Judicial Compromise Agreement**.

Under Section 204(A) of the National Internal Revenue Code of 1997, as amended (Tax Code), the CIR is vested with the authority to enter into agreements for the compromise of deficiency taxes assessed 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 tax. In this case, the subject compromise is grounded on the *doubtful validity of the assessment, e.g.,*

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4 Unpaginated.
5 Through James H. Roldan, Assistant Commissioner of Internal Revenue, Enforcement and Advocacy Service.
6 Unpaginated.
7 Subject: 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., Revenue Regulations No. 30-02, (December 16, 2002).

it involves a jeopardy assessment,[8] the assessment lacks factual or legal basis, etc.[9]

When based on the doubtful validity of the assessment, as a *general rule*, the compromise settlement amount shall be equivalent to *at least* 40% of the basic assessed tax.[10] *By exception*, the assessment may be compromised at a *lower rate*, upon the taxpayer's written request and prior approval by the NEB.[11]

The CIR's approval or denial of an application in the exercise of its power to compromise is purely discretionary; the courts may not interfere with such exercise, unless there is grave abuse of discretion.[12] A compromise agreement constitutes *res judicata* between the parties.[13] Thus, when it is submitted for approval, the court is duty-bound to respect the parties' express stipulations, *except* when there "mistake, fraud, violence, intimidation, undue influence, or falsity of documents."[14]

In *Kepco Philippines Corp. v. Commissioner of Internal Revenue*,[15] the Supreme Court upheld the agreement to compromise deficiency taxes for the following reasons: *First*, there was **no grave abuse of discretion**. The CIR granted the application for compromise after **the taxpayer had complied with the procedures prescribed under the BIR rules** on the application and approval of compromise settlement on the ground of doubtful validity. *Second*, the execution of the agreement was ***not* attended by mistake, fraud, violence, intimidation, undue influence, or falsity of documents.**

Similarly, We also sustain the parties' Judicial Compromise Agreement.

First, the CIR did not commit grave abuse of discretion; the parties executed the agreement in compliance with relevant rules and regulations. It was entered into by the CIR, by virtue of its authority

8 Section 3.1(a), RR No. 30-02.
9 Section 3.1(b), RR No. 30-02.
10 Section 204(A), Tax Code.
11 Section 4.2 of RR No. 33-02
12 *Kepco Philippines Corp. v. Commissioner of Internal Revenue*, G.R. Nos. 225750-51 (Resolution), July 28, 2020.
13 Article 2037, Civil Code.
14 *Kepco Philippines Corp. v. Commissioner of Internal Revenue*, G.R. Nos. 225750-51 (Resolution), July 28, 2020.
15 G.R. Nos. 225750-51 (Resolution), July 28, 2020.

under Section 204(A) of the Tax Code, and HCCFPI, represented by Carlos Arleen Balingit, Jr., its financial controller, assisted by the law firm of Angara Abello Concepcion Regala & Cruz (ACCRA). Balingit and ACCRA had been authorized by HCCFPI's Board of Directors in a Resolution approved on January 11, 2023.[16] Accordingly, the compromised amounts are 40% of the assessed basic taxes *except* for that pertaining to IT. In any case, the compromise bears the NEB's approval, as confirmed in the Certificate of Availment. HCCFPI has since paid the compromised amount, as evidenced by the corresponding BIR Form No. 0605; all such payments were acknowledged ad accepted by the BIR through eFPS.

Second, the parties have *jointly* come before the Court for the approval of the subject agreement. There is no argument or anything in the records that suggests that the agreement is defective.

There being no grave abuse of discretion, We shall not interfere with the CIR's decision to enter into a compromise with HCCFPI. The Judicial Compromise Agreement was entered into voluntarily and executed in accordance with the prescribed rules; it deserves the Court's seal of approval.

WHEREFORE, the parties' "Joint Motion for Judgment Based on Compromise Agreement with Compliance" is **GRANTED** and **NOTED**. The Judicial Compromise Agreement appended as Annex "A" to the Joint Motion, executed by and between HC Consumer Finance Philippines, Inc., represented by its Financial Controller Carlos Arleen Balingit, Jr., assisted by the law firm of Angara Abello Concepcion Regala & Cruz, and the Commissioner of Internal Revenue, is **APPROVED**. Accordingly, respondent's "Urgent Omnibus Motion: (1) For Partial Reconsideration (Re: Resolution dated 31 May 2024); and Admit the Attached Judicial Affidavits of Mr. Carlos Arleen P. Balingit, Jr. and Mr. Leslie R. De Guzman" is **MOOTED**; and CTA Case No. 10757 is **DECLARED CLOSED AND TERMINATED**.

SO ORDERED.

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

[16] Annex "A," Joint Motion for Judgment on Compromise, unpaginated.

WE CONCUR:

With due respect, please see Concurring and Dissenting Opinion.
CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
Associate Justice

ATTESTATION

I attest 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.

CATHERINE T. MANAHAN
Chairperson
Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Third Division Chairperson's Attestation, 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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

HC CONSUMER FINANCE PHILIPPINES, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10757

Present:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

SEP 27 2024
3:30 p.m.

x- x

CONCURRING AND DISSENTING OPINION

MANAHAN, *J.*:

I concur in the grant of the parties' *Joint Motion for Judgment Based on Compromise Agreement* for the compromise of deficiency Income Tax (IT) and Value-Added Tax (VAT).

However, with due respect to my esteemed colleague, Justice Marian Ivy F. Reyes-Fajardo, I am dissenting to the grant of compromise for Expanded Withholding Tax (EWT), Final Withholding Tax (FWT), and Final Withholding of VAT (FWVAT) at 40% of the basic withholding tax.

In *Felipe O. Magbanua, et al. v. Rizalino Uy,*[1] the Supreme Court ruled that compromise agreement, among others, must not be contrary to public policy, to wit:

> "A compromise agreement is a contract whereby the parties make reciprocal concessions in order to resolve their differences and thus avoid or put an end to a lawsuit. They adjust their difficulties in the manner they have agreed upon, disregarding the possible gain in litigation and keeping in mind that such gain is balanced by the danger of losing. Verily, the compromise may be either extrajudicial (to prevent litigation) or judicial (to end a litigation).

[1] G.R. No. 161003, May 6, 2005.

A compromise must not be contrary to law, morals, good customs and public policy; and must have been freely and intelligently executed by and between the parties. To have the force of law between the parties, it must comply with the requisites and principles of contracts. Upon the parties, it has the effect and the authority of *res judicata*, once entered into...." (*Emphasis supplied*)

In this regard, Section 2 of Revenue Regulations No. 30-2002 dated December 16, 2002[2] provides:

"**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:

1. Delinquent accounts;

2. Cases under administrative protest **after issuance of the Final Assessment Notice (FAN) 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"

Under the above-quoted provision, a taxpayer may enter into a compromise settlement if it involves: (1) Delinquent accounts; (2) Pending cases under administrative protest after issuance of the FAN; (3) Civil or collection cases pending in courts; and (4) Criminal tax cases pending in courts or those involving criminal tax fraud.

However, the same provision provides that a taxpayer may *not* enter into a compromise settlement if it involves withholding

[2] SUBJECT: 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.

tax cases, *unless the applicant-taxpayer invokes provisions of law that cast doubt on the taxpayer's obligation to withhold.*

Simply put, in order to validly subject withholding tax cases to a compromise settlement, the taxpayer should present legal basis casting doubt on the taxpayer's obligation to withhold.

Here, a perusal of the subject Compromise Settlement shows that petitioner failed to present any legal basis that casts doubts on its obligation to withhold the relevant EWT, FWT, and FWVAT. Hence, guide by the above-quoted provisions of Section 2of RR No. 30-2002, *the said withholding taxes may not be the subject of a compromise settlement.*

Considering the foregoing, I **VOTE** to **PARTIALLY GRANT** the parties' *Joint Motion for Judgment Based on Compromise Agreement* as follows: (1) **GRANT** relative to the compromise of deficiency Income Tax and Value-Added Tax; and (2) **DENY** the compromise of the subject Expanded Withholding Tax, Final Withholding Tax and Final Withholding of VAT.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice