REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

APO CEMENT CORPORATION,
Petitioner,

C.T.A. CASE NO. 6710

Members:

\- versus -

CASTAÑEDA, JR., *Chairperson*
UY, *and*
PALANCA-ENRIQUEZ, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

JUL 3 1 2006

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DECISION

UY, J.:

This is a Petition for Review filed by petitioner seeking the cancellation and withdrawal of Assessment Notice Nos. IT-98-00010, IT-98-00011, IT-98-00012 and IT-98-00013 for deficiency income taxes in the total amount of **SEVEN HUNDRED FORTY ONE MILLION SIXTY THREE THOUSAND ONE HUNDRED TWELVE AND 07/100 PESOS (P741,063,112.07)** for the taxable years 1998, 1999, 2000 and 2001.

THE FACTS

The facts as stipulated by the parties are as follows:

Petitioner is a domestic corporation duly organized and existing under the laws of the Philippines with office address at the 25th Floor, Petron Mega

497

Plaza, 358 Senator Gil J. Puyat. It is a cement producer registered under the status of a pioneer enterprise with the Board of Investments pursuant to Executive Order No. 226 (E.O. No. 226), otherwise known as the Omnibus Investments Code under Certificate of Registration No. BP 93-065 dated May 16, 1994, and was granted, among others, the incentive of an income tax holiday for a period of four (4) years from January 1998, or from the actual start of its commercial operations, whichever is earlier.

Respondent is the duly appointed Commissioner of Internal Revenue mandated by law to enforce and implement the National Internal Revenue Code of 1997 and related statutes, including, among others, the power to cancel disputed assessments, with office address at BIR National Office Building, Diliman, Quezon City.

On November 14, 2002, petitioner received from respondent, through the Assistant Commissioner of Internal Revenue, Large Taxpayer's Services, a Preliminary Assessment Notice dated November 12, 2002, assessing it of deficiency income taxes,[1] computed as follows:

	1998	1999	2000	2001
Tax Due	P 58,998,987.90	P 92,711,570.82	P251,814,096.00	P152,541,502.08
Add: Interest	44,603,234.85	46,355,785.41	75,544,228.80	15,254,150.20
Compromise	25,000.00	25,000.00	25,000.00	25,000.00
Deficiency Income Tax	**P103,627,222.75**	**P139,092,356.23**	**P327,383,324.80**	**P167,820,652.28**

Consequently, on November 28, 2002, petitioner contested the preliminary assessment notice setting forth therein the factual and legal issues to support its protest. And since there was already a Letter of Authority

[1] Preliminary Assessment Notice (PAN), Exhibit "C", Rollo, p.271.

498

issued for the examination of petitioner's 1998 to 2001 income taxes, petitioner contends that pending the results of the examinations, any action to enforce the collection of the alleged deficiency taxes should be held in abeyance.[2]

On December 27, 2002, a Final Letter of Demand and four (4) Final Assessment Notices with Nos. 98-00010, 98-00011, 98-00012 and 98-00012, all dated December 2, 2002, were received by petitioner. The Final Assessment Notices showed an aggregate amount of deficiency income taxes of P741,063,112.07 with Details of Discrepancies, as follows:

ITH	FAN No.	Basic Tax	Interest	Compromise	Total
1998	IT-98-00010	49,221,331.92	36,533,166.36	25,000.00	85,799,498.28
1999	IT-98-00011	92,711,570.82	50,270,273.96	25,000.00	143,006,844.78
2000	IT-98-00012	251,814,096.00	86,176,379.52	25,000.00	338,015,475.52
2001	IT-98-00013	152,541,502.08	21,694,791.41	25,000.00	174,261,293.49
				Grand Total	**741,063,112.07**

DETAILS OF DISCREPANCIES

INCOME TAX

Subject taxpayer is not entitled to the application of Income Tax Holiday for the period 1998 to 2001 in the absence of an approval/confirmation by the Board of Investments as required under Rule IX Sections 1 and 5 and Rule XI (j)(k) of the Implementing Rules and Regulations of EO 226, otherwise known as the Omnibus Investment Code of 1987.

As such, APO is hereby assessed income tax at a rate of 34% (1998), 33% (1999), and 32% (2000 and 2001) pursuant to Section 27 (A) of the National Internal Revenue Code of 1998.[3]

On January 27, 2003, petitioner filed its protest requesting for the cancellation and/or reconsideration of the findings of respondent on the alleged deficiency income taxes for the taxable years 1998 to 2001. Consequently, on March 27, 2003, petitioner submitted additional documents

[2] Letter-reply to the PAN, Exhibit "D", Rollo, pp.274-275.
[3] Final Letter of Demand, Exhibit "E", Rollo, pp.276-281.

in support of its protest pursuant to Section 228 of the National Internal Revenue Code of 1997 (NIRC of 1997).

On May 27, 2003, petitioner received a Final Decision on Disputed Assessment issued by the respondent through the Assistant Commissioner of Internal Revenue, Large Taxpayer's Service, denying with finality its protest on the Final Assessment Notices for lack of legal and factual bases.

Hence, petitioner filed a Petition for Review on June 26, 2003 before this Court. Subsequently, petitioner filed an Amended Petition for Review on September 4, 2003, which was admitted in this Court's Resolution dated November 19, 2003.

In the Answer to the Amended Petition for Review, respondent raises the following Special and Affirmative Defenses:

> "6. The assessments were issued in accordance with law and regulations;
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> 7. The incentives granted by the Board of Investments are not absolute. Rule IX of Executive Order No. 226 (sic) [4] specifically provides the conditions for availment of incentives in general, to wit:
>
> > 'RULE IX. CONDITIONS FOR AVAILMENT OF INCENTIVES IN GENERAL
> >
> > Section 1. Compliance with Obligations. ----- The enterprise shall observe and abide by the provisions of the code and its implementing rules and regulations, and take adequate measures to ensure that its obligations thereunder as well as those of its officers, employees and stockholders are faithfully discharged.
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> > xxx

[4] Should be Rules and Regulations to Implement E.O No. 226.

> Section 5. Delinquent Enterprises. ----- No availment of incentives may be allowed an enterprise delinquent in compliance with any of the terms and conditions of registration, including such reports and statistical data which may be required by the Board.'

8. In relation to the above, verification with the Board of Investments disclosed that no application for Income Tax Holiday has yet been filed by petitioner as of August 30, 2002;

9. For failure to observe the reportorial requirements imposed by the Board of Investments under Rule XI, to wit:

> 'RULE XI. SUBMISSION OF REPORTS AND OTHER DOCUMENTS
>
> Every registered enterprise shall, for each preferred area of investment, submit to the Board the following reports and/or documents within the time herein prescribed:
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> xxx
>
> (j) Income tax returns --- thirty (30) calendar days from filing thereof;
>
> (k) Audited annual financial statements, viz.: (1) profit and loss statement; and (2) balance sheets --- one (1) month from date of filing with the Bureau of Internal Revenue of the annual income tax return for the preceding calendar/fiscal year.'

   no availment of incentives may be allowed to petitioner for being a delinquent enterprise pursuant to Section 5, Rule IX of Executive Order No. 226 (sic)[5];

10. A Certificate of Entitlement for Income Tax Holiday is a necessary requisite for entitlement to such incentive. Thus, petitioner's claims for income tax exemption has no basis in law and in fact;

11. All presumptions are in favor of the correctness of a tax assessment; and

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[5] *Ibid.*

181

12. As stated in the letter dated July 17, 2003 of the Board of Investments (Annex 'L' of Amended Petition for Review), on December 22, 1989, a Notice for Registered Firms under E.O. 226 from the BOI was published in the Malaya informing them, among other matters, of the availability of the guidelines for the availment of such notice constituted substantial compliance with the requirement for publication of the Rules and Regulations in the Availment of Income Tax Holiday, because said rules and regulations were actually made available to registered firms."

Both parties filed their respective memorandum within the period given by this Court and this case was submitted for decision on October 10, 2005.

Hence, this decision.

THE ISSUES

In their Joint Stipulation of Facts and Issues filed on March 1, 2004, the parties submitted the following issues for this Court's resolution:

"1) Whether or not respondent's income tax assessment against the petitioner is valid and in relation thereto;

a) Whether or not the law requires petitioner to secure approval/confirmation from the Board of Investments (BOI) to avail of an income tax holiday under the Omnibus Investments Code, otherwise known as E.O. 226;

b) Whether or not Rule IX, Sections 1 and 5 or Rule XI (j) (k) of the Implementing Rules and Regulations of Executive Order No. 226 requires that petitioner acquire an approval/confirmation by the Board of Investments for the availment of Income Tax Holiday;

c) Whether or not the BOI Rules and Regulations in the Availment of Income Tax Holiday are ultra vires;

d) Whether or not the Terms and Conditions of the Certificate of Registration which provides for fines, penalties or possible forfeiture of the incentive in case of non-compliance with the requirement of filing an incentive application, provides for automatic forfeiture of the incentive;

e) Whether or not the BOI Rules and Regulations in the Availment of Income Tax Holiday are valid and effective; and

f) Whether or not the Notice for Registered Firms under E.O. 226 from the BOI published in the Malaya on December 22, 1989 informing them, among other matters, of the availability of the guidelines for the availment of ITH at the Records Section of the BOI, was a substantial compliance with the requirement for publication of the Rules and Regulations in the Availment of the Income Tax Holiday."

It is petitioner's stand that the operative act of enjoying income tax holiday is the fact of registration with the Board of Investments (BOI). It contends that Article 39 of E.O. No. 226, otherwise known as the Omnibus Investments Code, clearly uses the commanding word "shall" which connotes that upon registration with the BOI, an enterprise is entitled, as a matter of course, to enjoy income tax holiday for such period as stated therein. This is allegedly in consonance with the policy of the State to encourage investments by extending and/or devising fiscal incentives to stimulate the establishments as well as assisting in the initial operations of the enterprises.[6]

Furthermore, petitioner submits that respondent's argument that a separate Certificate of Entitlement for Income Tax Holiday is a necessary requisite before it can avail of the income tax holiday is clearly erroneous and without basis in law. Allegedly, the basis used by respondent is the non-existent BOI Rules and Regulations in the Availment of Income Tax Holiday because the same failed to meet the requirement of publication, thus, violating

[6] Article 2, Chapter 1, E.O. No. 226.

petitioner's right to due process. According to petitioner, administrative rules and regulations must be published, if their purpose is to enforce or implement existing laws pursuant also to a valid delegation. It contends that the BOI Rules and Regulations in the Availment of Income Tax Holiday failed to even substantially comply with the mandatory requirement of publication as required under Article 2 of the New Civil Code.

To further bolster its stand, petitioner presented testimonies of its witnesses from the Office of the National Printing Office and the U.P. Law Center, as well as, certificates issued by the same offices, [7] allegedly acknowledging the BOI's non-compliance with publication requirement.

Petitioner also avers that all issuances of administrative agencies must be consistent and in harmony with the law they seek to implement and apply, and that there is no argument that in case of conflict between the principal law and its implementing rules and regulations, the former prevails.[8] However, in the case at bench, the BOI Rules and Regulations in the Availment of Income Tax Holiday is infirmed as these allegedly expanded the ambit of E.O. No. 226.

Petitioner stresses that the requirement of the filing for an application for the enjoyment of income tax holiday allegedly does not exist in the provisions of E.O. No. 226, much more, in E.O. No. 226's Implementing Rules and Regulations. Assuming *arguendo* that there was failure on the part of the petitioner to file its application for an income tax holiday, it insists that the

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[7] Certifications (National Printing Office and U.P. Law Center), Exhibits "K" and "M", Rollo, pp.423 and 430.
[8] Citing Philippine Petroleum Corporation vs. Municipality of Pililla, Rizal, 198 SCRA 82 (1991).

same does not expose the enterprise to fines and forfeitures automatically. Allegedly, no notice was given by the BOI to petitioner as to the suspension of its incentives, which is in clear violation of its constitutional right to due process.

Finally, petitioner submits that the income tax assessment for the year 1998 had already prescribed. Final Assessment Notice No. IT-98-00010 dated December 2, 2002 was issued for the alleged deficiency income tax of petitioner for the taxable year 1998. However, petitioner believes that there is evidence showing that its Annual Income Tax Return for the year 1998 was filed on October 25, 1999. Thus, it argues that the right of respondent to assess petitioner for the 1998 deficiency income tax had already prescribed pursuant to Section 203 of the NIRC of 1997.

On the other hand, it is respondent's stand that a Certificate for Entitlement for Income Tax Holiday from the Board of Investment (BOI) is a necessary requisite for entitlement of such incentive, and upon verifications with the said Board, no application for an income tax holiday has ever been filed by petitioner as of August 30, 2002. As can be gleaned from the provisions of Rules IX and XI of the Implementing Rules and Regulations of Executive Order No. 226, otherwise known as the Omnibus Investments Code, the incentives granted by the BOI are allegedly not absolute. Thus, petitioner's claims for income tax exemptions have no basis in law and in fact.

More importantly, the Notice for Registered Firms under E.O. No. 226 from the BOI, which was published in the Malaya on December 22, 1989, giving notification of the availability of the guidelines for the availment of the income tax holiday at the Records Division of the BOI, allegedly constitutes substantial compliance with the requirement of publication.

THIS COURT'S RULING

Considering that the issues raised are purely legal in nature and are at the same time interrelated, this Court deems it proper to discuss them jointly for convenience and brevity.

There is no dispute that petitioner is registered with the Board of Investments (BOI) as a new producer enterprise with a pioneer status.[9] Certificate of Registration No. BP-93-065 dated May 16, 1994 shows that the original Certificate was issued in the name of JG Cement Corporation, but was later on transferred to Apo Cement Corporation (herein petitioner) pursuant to the Board Minutes dated September 21, 1995, as stipulated on the face of the Certificate.[10] It is likewise undeniable that with the approval of petitioner's registration with the BOI, petitioner is entitled to the Income Tax Holiday (ITH) incentive for a period of four (4) years, which was later extended to five (5) years pursuant to the enactment of R.A. 7819 amending Article 39 of E.O. No. 226, from January 1998 or actual start of commercial operations, whichever is earlier.

In the availment of an income tax holiday, it is explicitly provided under the "Specific Terms and Conditions" in petitioner's Certificate of Registration, that petitioner must file an incentive application within one (1) month from the filing of its final Income Tax Returns (ITR) with the Bureau of Internal Revenue (BIR). Failure on the part of the applicant to file within the period

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[9] Specific Terms and Conditions, Exhibit "B-3", Rollo. P. 269.
[10] Certificate of Registration, Exhibit "B", Rollo, p 267.

506

prescribed shall mean imposition of fines and penalties **including the possible forfeiture of incentives or non-acceptance of the application**. Clearly therefore, petitioner is required to file incentives application with the BOI and the same must be done within one (1) month from the filing of petitioner's final ITR with the office of the BIR.

In this regard, petitioner does not deny the fact it did not file any incentive application for the taxable years 1998 to 2001 because it believes that there was no need for a separate incentives application as mere registration with the BOI was sufficient. Evidently however, petitioner complied with the other reportorial requirements under its Certificate of Registration such as submission of its Audited Financial Statements and Income Tax Returns for taxable years 1998-2001,[11] among others.

The Court notes that these same conditions are mentioned under Rules IX and XI of the Rules and Regulations implementing E.O. No. 226 also, to wit:

> "**RULE IX. CONDITIONS FOR AVAILMENT OF INCENTIVES IN GENERAL**
>
> Section 1. Compliance with Obligations. ----- The **enterprise shall observe and abide by the provisions of the code and its implementing rules and regulations,** and take adequate measures to ensure that its obligations thereunder as well as those of its officers, employees and stockholders are faithfully discharged.
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> Section 5. Delinquent Enterprises. ----- **No availment of incentives may be allowed an enterprise delinquent in compliance with any of the terms and conditions of registration, including such reports and statistical data**

[11] BIR Records, pp.251-254.

107

> **which may be required by the Board.**" *(Emphasis and underscoring Ours)*
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> "**RULE XI. SUBMISSION OF REPORTS AND OTHER DOCUMENTS**
>
> Every registered enterprise shall, for each preferred area of investment, submit to the Board the following reports and/or documents within the time herein prescribed:
>
> xxx
>
> (l) Income tax returns --- thirty (30) calendar days from filing thereof;
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> **(m) Audited annual financial statements, viz.: (1) profit and loss statement; and (2) balance sheets --- one (1) month from date of filing with the Bureau of Internal Revenue of the annual income tax return for the preceding calendar/fiscal year.**" *(Emphasis Ours)*

Moreover, the terms and conditions mentioned in petitioner's Certificate of Registration are those similarly provided for under Sections 3 to 7 of Rule III of the BOI Rules and Regulations In the Availment of Income Tax Holiday, specifically the following provisions:

> "**RULE III . RULES IN THE AVAILMENT OF INCOME TAX HOLIDAY**
>
> xxx xxx xxx
>
> Section 4. When Application should be filed. **Applications for ITH shall be filed in the prescribed form within one (1) month from the filing of the Annual Income Tax Return (ITR) with the BIR**. For companies which filed tentative ITRs, the filing of the application shall be done within one (1) month from the filing of the final ITR or within one (1) month after the lapse of the two (2) year period within which to file the final ITR.
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> xxx xxx xxx
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> Section 7. Penalty Provision. All applications for income tax exemption, covering taxable year 2002 and onwards, which are filed beyond the prescribed period provided in Section 4

hereof shall be imposed penalty to be computed as follows:

a. Minimum Penalty

No. of day delay	31-180	181-300	Over 300
Amount	P1,000	P5,000	P10,000

b. For delays of 365 days or less the following formula shall be used:

$$\text{Penalty} = \text{Amount of ITH} \times 1\% \quad \frac{\text{No. of days delay}}{365 \text{ days}}$$

c. For delays of more than 365 days
Penalty = Amount of ITH x % Penalty (1.75 for exempt income tax of more than P100M and 1.5% for P100M or less)

d. Maximum Penalty = P2Million per taxable year

Applications covering taxable year prior to 2002 shall be imposed penalty using the rates approved by the Board on November 6, 1998. **Provided, that applications filed beyond two and a half (2 ½) years from the lapse of the period for filing the income tax return for income eligible for ITH shall no longer be accepted**" *(Emphasis Ours).*

Petitioner as a registered new enterprise with the BOI, is clearly bound by the aforequoted rules and regulations, insofar as availment of the income tax holiday is concerned. Its non-compliance with any of the specific terms and conditions set forth in its certificate of registration, more particularly, the filing of an application for the availment of the ITH incentive within the period prescribed therein, will result to, either: (a) imposition of fines and penalties, including possible forfeiture of incentives; or (b) non-acceptance of the said application.

Consequently, petitioner's failure to file within the required period, its incentive application with the BOI, and its continuous failure to do so up to this time, did not only make it susceptible to the payment of fines and penalties, but also, the possible deprivation of its right to avail of the ITH incentive pursuant to its certificate of registration.

Petitioner submits that not only do the BOI's Rules and Regulations in the Availment of Income Tax Holiday lack the element of publication, but the same suffer the infirmity of expanding the ambit of E.O. No. 226 itself as well. These arguments deserve scant consideration.

It is settled that all statutes, including those of local application and private laws, shall be published as a condition for their effectivity.[12] However, the assailed Rules and Regulations in the Availment of Income Tax Holiday was promulgated to govern the availment of ITH which is merely interpretative in nature, and therefore, the need for a publication may be dispensed with.

When an administrative rule is merely interpretative in nature, its applicability needs nothing further than its bare issuance, for it gives no real consequence more than what the law itself has already prescribed.[13]

Going now to the assailed assessments in the instant petition, it is respondent's stand that petitioner is not entitled to the enjoyment of Income Tax Holiday for the years 1998 to 2001 due to the absence of approval/confirmation by the BOI of its application for Income Tax Holiday for the subject period.

The Court finds merit in respondent's argument.

In relation to Our discussion earlier, the absence of a Certificate for Entitlement of Income Tax Holiday issued by the BOI in favor of petitioner is sufficient legal basis for respondent to deny petitioner's availment of income tax holiday without negating the right of the BOI to issue tax incentives to BOI registered entities.

Although the Board of Investment is a separate and distinct entity

[12] Tañada vs. Tuvera, 146 SCRA 446 (1986).
[13] Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc., 406 SCRA 178 (2003).

510

empowered to grant tax incentives under the law, the power of the respondent to review such tax exemptions remains. In fact, Section 6 of the NIRC of 1997 gives respondent the power to examine and assess a taxpayer of the correct amount of tax based on the returns filed. Said section reads:

> "SEC. 6. *Power of the Commissioner to Make Assessments and Prescribed Additional Requirements for Tax Administration and Enforcement.* –
>
> (A) *Examination of Returns and Determination Tax Due.* – After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative **may authorize the examination of any taxpayer and the assessment of the correct amount of tax**: *Provided, however*, that failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.
>
> The tax or any deficiency tax so assessed shall be paid upon notice and demand from the Commissioner or from his duly authorized representative." *(Emphasis Ours)*

Anent petitioner's assertion that the income tax assessment for 1998 has already prescribed, We find the same to be meritorious.

Based on the evidence on record, Final Assessment Notice Nos. IT-98-00010, IT-98-00011, IT-98-00012 and IT-98-00013 for the taxable years 1998, 1999, 2000 and 2001, respectively, were all issued on December 2, 2002.[14] The Final Annual Income Tax Returns for the years 1998, 1999, 2000 and 2001 were filed by petitioner on October 25, 1999,[15] April 17, 2000,[16] April 16, 2001[17] and April 15, 2002,[18] respectively.

Pursuant to Section 203 of the NIRC of 1997, internal revenue taxes

[14] Exhibit "E", supra.
[15] Exhibit "G-2-c", Rollo, p.293.
[16] Exhibit "G-4-c", Rollo, p.324.
[17] Exhibit "G-6-c", Rollo, p.348.
[18] Exhibit "G-8-c", Rollo, p.375.

shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period; provided, that in a case where the return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. Thus, respondent had until October 24, 2002;[19] April 17, 2003; April 15, 2004[20] and April 14, 2005,[21] within which to assess petitioner of its deficiency income taxes for the taxable years 1998, 1999, 2000 and 2001, respectively. Clearly then, respondent's right to assess petitioner for its deficiency income taxes for the taxable year 1998 had already prescribed. On the other hand, with respect to the assessments for the years 1999, 2000 and 2001, the same are hereby affirmed.

It bears stressing that the Final Assessment Notices were issued against petitioner on the basis of petitioner's failure to introduce any evidence to support its tax exemption claims, more particularly, the income tax holiday approval/confirmation by the BOI. It is well settled that assessments are *prima facie* presumed correct and made in good faith.[22] In the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed.[23]

However, We delete the imposition of compromise penalty in the amount of P25,000.00 for every taxable year since there was no agreement

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[19] The year 2000 being a leap year.
[20] *Ibid.*
[21] *Ibid.*
[22] Ferdinand R. Marcos II vs. Court of Appeals, et al., 273 SCRA 47 (1997).
[23] Commissioner of Internal Revenue vs. Court of Appeals, et al., 242 SCRA 289 (1995).

reached between the parties.[24] A compromise, by its very nature, implies mutual agreement by the parties in regard to the thing or subject matter which is to be compromised. An offer of compromise does not, therefore, assume the category of a compromise until it is voluntarily accepted by the other party, and no obligation arises or is created by a simple offer or suggestion coming from one of the parties without acceptance by the other.[25]

WHEREFORE, the subject Petition for Review is **PARTIALLY GRANTED**. Consequently, Final Assessment Notice No. IT-98-00010 issued for the taxable year 1998 in the amount of P85,801,496.28 is hereby **CANCELLED AND WITHDRAWN** for being issued beyond the prescribed period allowed by law; while Final Assessment Notice Nos. IT-98-00011, IT-98-00012 and IT-98-00013 issued for the respective taxable years 1999, 2000 and 2001 are hereby **AFFIRMED** except for the compromise penalties; thus, recomputed as follows:

ITH	FAN No.	Basic Tax	Interest	Total
1999	IT-98-00011	92,711,570.82	50,270,273.96	P 142,981,844.78
2000	IT-98-00012	251,814,096.00	86,176,379.52	337,990,475.52
2001	IT-98-00013	152,541,502.08	21,694,791.41	174,236,293.49
				P 655,208,613.79

Accordingly, petitioner is hereby **ORDERED TO PAY** the respondent the reduced amount of **SIX HUNDRED FIFTY FIVE MILLION TWO HUNDRED EIGHT THOUSAND SIX HUNDRED THIRTEEN AND 79/100 PESOS (P655,208,613.79)**, representing its deficiency income taxes for

[24] Collector of Internal Revenue vs. UST, 104 Phil 1062 (1958).
[25] Paramount Insurance Corporation vs. Commissioner of Internal Revenue, CTA Case No. 4844, June 7, 1997.

taxable years 1999, 2000 and 2001, plus 20% delinquency interest computed from January 27, 2003[26] until the same is fully paid, pursuant to Section 249(C) of the NIRC of 1997.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ATTESTATION

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

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

[26] The 30th day from receipt of the Final Demand Letter and Assessment Notices, January 26, 2003, was a Sunday.

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice