REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

PILMICO MAURI FOODS CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 6880

Members:

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

Promulgated:

JUL 3 1 2008
3:05 p.m.

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RESOLUTION

For resolution are:

1. petitioner's **"Motion/Manifestation"** filed on April 17, 2008 alleging its availment of the Tax Amnesty Program under Republic Act No. 9480;

2. respondent's **"Comment/Opposition (To Petitioner's Motion/Manifestation)"** filed on May 7, 2008, and "Supplemental Comment/Opposition (To Petitioner's Motion/Manifestation)" filed on May 8, 2008;

3. petitioner's **"Reply"** filed on May 19, 2008; and

4. petitioner's **"Compliance"** filed on July 15, 2008 pursuant to the Court's Resolution dated July 1, 2008 submitting certified true copies of the pertinent documents required under the Tax Amnesty Program of Republic Act No. 9480.

Finding petitioner's Compliance to be in order, the same is hereby **NOTED**.

Hence, this Resolution.

In the "Motion/Manifestation" filed on April 17, 2008, petitioner elucidates that it is entitled to avail of the benefits and privileges of tax amnesty and submits the required documents as proof of its availment under R.A. No. 9480. Considering the allegations of the petitioner in said motion and the relief being prayed for, petitioner's "Motion/Manifestation" is hereby treated as a Motion to Withdraw the Petition in the above-captioned case.

Respondent, in both her Comment/Opposition and Supplemental Comment/Opposition alleges that petitioner is not qualified to avail of tax amnesty since the subject deficiency income and value added taxes for taxable year 2003, being collected by the respondent from petitioner per Final Demand Notice dated January 30, 2004, has already become final, executory, and demandable. Respondent argues that the Collection Letter and Final Demand Notice in this case are considered "unpaid self-assessed taxes" of petitioner which partake the nature of delinquent accounts/accounts receivables in favor of the Government. Consequently, it is respondent's belief that petitioner is now excepted from the coverage of the Tax Amnesty Law under the "Basic Guide on the Tax Amnesty Act of 2007" which provides that "delinquent accounts/account receivables considered as assets of the BIR/Government, including self-assessed tax" is one of those instances where a taxpayer cannot avail tax amnesty. Furthermore, respondent manifests that since the tax amnesty documents were merely received and accepted by the

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Landbank of the Philippines, it clearly violates paragraph 3, Section 6, Rule III of Revenue Memorandum Circular No. 55-2007.

In its Reply, petitioner avers that the subject matter of the instant case is not an unpaid self-assessed tax considering that the very issue involved herein is "whether or not petitioner's liability had been extinguished by payment through the use of tax credit certificates". It is precisely petitioner's contention that the alleged tax liabilities have already been fully paid through a valid Tax Memoranda duly issued and approved by the respondent; hence, the same should not be considered as "delinquent accounts/account receivables considered as assets of the BIR/Government, including self-assessed tax". Finally, petitioner posits that the submission of tax amnesty related documents to the Landbank of the Philippines, being an authorized agent banks, is substantial compliance with the implementing rules and regulations (IRR) of R.A. No. 9480 pursuant to Bank Bulletin No. 2008-09 issued by respondent giving taxpayers the option to file all the pertinent documents in availing the tax amnesty program either with the Revenue District Office of the BIR or the Authorized Agent Banks (AAB).

We find respondent's position without merit.

Under Section 8 of R.A. No. 9480 and Section 5, Rule II of its Implementing Rules and Regulations (IRR),[1] the tax amnesty shall not extend to the following persons or cases:

1. Withholding agents with respect with their withholding tax liabilities;
2. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;

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[1] Department of Finance Department Order No. 29-07, August 15, 2007.

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3. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;
4. Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;
5. Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and VII of the Revised Penal Code; and
6. Tax cases subject of final and executory judgment by the courts.

Clearly therefore, being not among the above enumerated exceptions to the coverage of the tax amnesty program under R.A. No. 9480, respondent's argument that the tax amnesty program shall not extend to the present case as the subject tax liabilities are "delinquent accounts/account receivables considered as assets of the BIR/Government, including self-assessed tax", is without any legal basis.

We now proceed to the merits of petitioner's availment of the Tax Amnesty Program. It must be emphasized that a taxpayer desiring to avail of the benefits thereof must conform with the requirements specified under Section 2 of R.A. No. 9480, which provides:

> "Sec. 2. *Availment of the Amnesty.* – Any person, natural or juridical, who wishes to avail himself of the tax amnesty authorized and granted under this Act shall file with the Bureau of Internal Revenue (BIR) <u>a notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005, in such form as may be prescribed in the implementing rules and regulations (IRR) of this Act, and pay the applicable amnesty tax within six months from the effectivity of the IRR.</u>" *(Underscoring Ours)*

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In addition, under its IRR,[2] a taxpayer availing of the program must present in the original or in certified true copy the following documents:

Forms to be submitted are:
- Notice of Availment of Tax Amnesty
- Statement of Assets, Liabilities and Networth (SALN)
- Tax Amnesty Return (BIR Form No. 2116)
- Payment Form (BIR Form No. 0617)

A perusal of the records of the case shows that the following certified true copies of the documents were submitted on July 15, 2008 by petitioner marked and attached to its "Compliance":

1. Notice of Availment of Tax Amnesty[3]	Annex "A"
2. Tax Amnesty Payment Form[4]	Annex "B"
3. Tax Amnesty Return for Taxable Year 2005[5]	Annex "C"
4. Statement of Assets, Liabilities and Net Worth as of December 31, 2005[6]	Annex "D"
5. BIR Tax Payment Deposit Slip (Bank Receipt)[7]	Annex "E"

The Court notes that the aforesaid bank receipt is machine validated in the amount of P500,000.00 to the account of the Bureau of Internal Revenue thru Landbank of the Philippines, Makati Atrium Branch. Thus, the bank receipt, together with the bank stamps on the other certified true copies submitted by petitioner, substantially proves that petitioner paid its tax amnesty due.

As regards to the contention that petitioner's documents were received and accepted not by the BIR, but by the Landbank of the Philippines, this Court finds the same immaterial considering that in the Compliance filed by petitioner on July 15, 2008, it already submitted the pertinent documents duly

[2] Ibid.
[3] Docket, p. 349.
[4] Id., at p. 350.
[5] Id., at p. 351.
[6] Id., at p. 352.
[7] Id., at p. 353.

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certified by the respondent's Assistant Chief Wilfredo V. Pilapil of LTDO-Makati, BIR. Therefore, it is logical to conclude that the BIR has already received and accepted the subject documents required in the availment of the tax amnesty program under R.A. No. 9480 considering the said Bureau issued certified true copies of the said pertinent documents.

The above documents show sufficient compliance with the provisions of R.A. No. 9480 and its implementing rules and regulations. Hence, considering that petitioner has fully satisfied the requisites of the tax amnesty law, and is deemed a duly qualified tax amnesty applicant, the subject tax deficiencies in the case at bench are extinguished, provided that petitioner's SALN as of December 31, 2005 is not understated to the extent of the thirty percent (30%) or more as may be established in a proceedings initiated by, or at the instance of, parties other than the BIR or its agents.[8]

WHEREFORE, premises considered, the instant Petition for Review filed on February 27, 2004 is hereby deemed **WITHDRAWN**, and the case is considered **CLOSED** and **TERMINATED**, subject to the provisions of R.A. No. 9480.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

[8] Section 4, R.A. No. 9480.

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