REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

TRIDHARMA MARKETING CORP., Petitioner,	CTA EB NO. 1891 (CTA Case No. 8833)
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	CTA EB NO. 1931 (CTA Case No. 8833)
	Present:
- versus -	DEL ROSARIO, *PJ* CASTAÑEDA, JR., UY, FABON-VICTORINO, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ.*
TRIDHARMA MARKETING CORP., Respondent.	Promulgated: JUL 20 2020 3:57pm

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JUDGMENT ON COMPROMISE AGREEMENT

***Fabon-Victorino, J.*:**

On February 22, 2019, the parties filed their *Joint Motion for the Approval of the Judicial Compromise*

Agreement[1] submitting therewith the original *Judicial Compromise Agreement* and prayed that it be approved and, consequently, deemed the case closed and terminated.

However, the Court noted that the parties failed to submit the following: (1) Proof of Authority of Mr. Stewart L. Ong to enter into a compromise agreement on behalf of Tridharma Marketing Corp. (Tridharma); and (2) The National Evaluation Board's (NEB) approval of the said compromise agreement, required under Section 204 of the National Internal Revenue Code (NIRC) of 1997, as amended, and Section 6 of Revenue Regulations (RR) No. 30-2002. Hence, in a Resolution[2] dated December 10, 2019, the Court directed the parties to submit within fifteen (15) days from notice, the document authorizing Mr. Stewart L. Ong to enter into compromise on behalf of Tridharma, as well as, the approval of the NEB of the compromise agreement. Meanwhile, action on the *Joint Motion for the Approval of the Judicial Compromise Agreement* was **HELD IN ABEYANCE**.

On December 16, 2019, Tridharma filed its *Compliance*[3] submitting the original of the Secretary's Certificate dated December 13, 2019 executed by Atty. Laura Love Peñaranda-Guevara indicating that Mr. Stewart L. Ong has authority to enter into a compromise agreement on behalf of Tridharma. For his part, Commissioner of Internal Revenue (CIR) filed a *Manifestation*[4] dated January 15, 2020, stating that he already requested for a copy of the NEB's approval of the compromise agreement from Alfredo V. Misajon, Assistant Commissioner – Collection Service of the Bureau of Internal Revenue (BIR). Tridharma's *Compliance* and CIR's *Manifestation* were both **NOTED** in the Resolution[5] issued on February 3, 2020.

On June 23, 2020, in compliance[6] with the Court's Resolution dated December 10, 2019, Tridharma submitted the following documents:

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[1] *En Banc* docket (CTA EB No. 1891), pp. 273-276.
[2] *En Banc* docket (CTA EB No. 1891), pp. 295-297.
[3] *En Banc* docket (CTA EB No. 1891), pp. 298-299.
[4] *En Banc* docket (CTA EB No. 1891), pp. 301-302.
[5] *En Banc* docket (CTA EB No. 1891), pp. 308-309.
[6] *En Banc* docket (CTA EB No. 1891), pp. 310-312.

a. *Certified True Copy* of the Certificate of Availment dated 9 March 2020 with No. CAC201700010826 issued by Clavelina S. Nacar, OIC-ACIR, Collection Service, on behalf of the Commissioner of Internal Revenue;

b. *Certified True Copy* of the document signed by the members of the National Evaluation Board showing their approval of the Judicial Compromise Agreement of the 2010 income tax and VAT assessments against Tridharma; and

c. *Copies* of Official Receipts Nos. OR202-004823-001320 and OR2020-004823-001319 issued by the BIR on 18 June 2020, evidencing payment of certification fees.

With the parties' compliance, the Court shall now act on the parties' *Joint Motion for the Approval of the Judicial Compromise Agreement.*

The *Judicial Compromise Agreement* partly reads:

xxx xxx xxx

> **WHEREAS**, the **TAXPAYER** instituted an action against the **BIR** entitled "*Tridharma Marketing Corporation, Inc. vs. Commissioner of Internal Revenue*", docketed as CTA Case No. 8833 before the Honorable Second Division of the Court of Tax Appeals ("**CTA**"), seeking the reversal of the **FDDA**, and the cancellation of the **FAN** only insofar as the deficiency Income Tax and Value Added Tax considering that the other tax assessments have been earlier paid;
>
> **WHEREAS**, the Honorable Second Division of the CTA on 15 February 2018 issued its Decision partially granting the Petition filed by the **TAXPAYER**, the dispositive portion of which states –
>
>> **WHEREFORE**, premises considered, the instant Petition for

Review is **PARTIALLY GRANTED.** Accordingly, respondent's deficiency VAT assessment for taxable year 2010 in the amount of P1,298,134,526.24 is hereby **CANCELLED AND WITHDRAWN.** On the other hand, respondent's deficiency income tax assessment for taxable year 2010 is hereby **UPHELD IN PART.** Consequently, petitioner is **ORDERED TO PAY** respondent the amount of **FIFTY-FOUR MILLION SEVEN HUNDRED FIFTEEN THOUSAND SIX HUNDRED ELEVEN PESOS AND FIFTY-THREE CENTAVOS (P54,715,611.53)** representing basic deficiency income tax and the 25% surcharge imposed under Section 248 (A) (3) of the NIRC of 1997, as amended, computed as follows:

Basic Deficiency Income Tax	P 43,772,489.22
Add: 25% Surcharge	10,943,122.31
Total	**P54,715,611.53**

In addition, petitioner is also hereby **ORDERED TO PAY**:

a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax of P43,772,489.22 computed from April 15, 2011 until full payment thereof pursuant to Section 249 (B) of the NIRC, as amended.

b) Delinquency interest at the rate of twenty percent (20%) per annum on the total amount of P54,715,611.53, and on the 20% deficiency interest which have accrued as aforestated in (a) computed from June 2, 2014 until full payment thereof pursuant to Section 249 (C) of the 1997 NIRC, as amended.

Provided, further, the amount of P50,000,000.00 paid by petitioner as offer of compromise shall be deducted in the final settlement of the above deficiency income tax including surcharge, deficiency interest, and delinquency interest.

SO ORDERED.

WHEREAS, the **PARTIES** filed their respective Motions for Reconsideration from the aforesaid Decision;

WHEREAS, the Honorable Second Division of the CTA on 6 July 2018 issued an Amended Decision, and which it later affirmed in its Resolution of 31 August 2018, the dispositive portion of which states –

> **WHEREFORE**, premises considered, respondent's Motion Partial Reconsideration (Re: Decision promulgated on 15 February 2018) is **DENIED** for lack of merit. On the other hand, petitioner's Motion for Partial Reconsideration (of the Decision dated 15 February 2018) is **PARTIALLY GRANTED**, and that the Decision dated February 15, 2018 is hereby **AMENDED** to read as follows, viz.:
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> > "**WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent's assessment as to the deficiency VAT assessment for taxable year 2010 in the amount of P1,298,134,526.24 is hereby **CANCELLED AND WITHDRAWN**. On the other hand, respondent's deficiency income tax assessment for taxable year 2010 is hereby **UPHELD IN PART**. Consequently, petitioner is **ORDERED TO PAY** respondent the amount of **THIRTY-TWO MILLION FIFTY-EIGHT THOUSAND FOUR HUNDRED TWENTY-SIX PESOS AND SEVENTY-TWO CENTAVOS (P32,058,426.72)** representing the amount still due after petitioner's partial payment of its income tax liability on May 29, 2014, including surcharges and interests imposed under Section 248(A)(3) and Section 249(B), respectively, of the NIRC of 1997, as amended, to be computed as follows:

Basic deficiency income tax	P 43,772,489.23
Add:	
25% Surcharge	10,943,122.31
20% p.a. Deficiency interest from	

April 15, 2011 to May 29, 2014 (P43,772,489.23 x 20% x 1,140/365 days)	27,342,815.19
Total amount due	**P 82,058,426.73**
Less: Partial payment on May 29, 2014	50,000,000.00
Amount still due after the payment made on May 29, 2014	**P 32,058,42673**

In addition, petitioner is further **ORDERED TO PAY**:

a) Delinquency interest on the unpaid amount of P32,058,426.73 at the rate of 20% per annum from June 2, 2014 ***until December 31, 2017***, pursuant to Section 249(C) of the NIRC of 1997; and

b) Delinquency interest at the rate of 12% per annum on the unpaid amount of P32,058,426.73 ***from January 1, 2018 until the amount is fully paid pursuant to Sec. 249(C) of the NIRC of 1997, in relation to Sec. 249(A) of the same Code, as amended by the TRAIN law***.

SO ORDERED."

SO ORDERED.

WHEREAS, the **PARTIES** filed their respective appeals before the Honorable Court En Banc of the CTA and there docketed as CTA EB No. 1891 and CTA EB No. 1931.

WHEREAS, the Honorable Court En Banc of the CTA on 18 October 2018 resolved to consolidate CTA EB No. 1931 with CT EB No. 1891.

WHEREAS, the **TAXPAYER** has relayed to the **BIR** its intention to comply with the terms of the appealed Decision and/or to enter into a judicial compromise pursuant to the provisions of the Civil Code of the Philippines, jurisprudence, relevant decisions of the Honorable CTA ad relevant laws on judicial compromise;

WHEREAS, the Honorable CTA has issued rulings allowing judicial compromises similar to the instant case.

WHEREAS, the **BIR** has evaluated the **TAXPAYER'S** proposal for amicable settlement and for its part proposed the payment of a premium on top of the judgment award of the CTA which it believe serves the interest of the Government;

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 above-mentioned case, upon terms and conditions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the foregoing premises, the **PARTIES** hereto have agreed as follows:

Section 1. Judicial Compromise Amount. In order to settle the above-mentioned case, the **TAXPAYER** has offered and paid and the **BIR** has accepted the **total compromise amount of Sixty Five Million Pesos (Php65,000,000.00) ("Judicial Compromise Amount")**.

xxx xxx xxx

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

Section 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 **BIR** undertakes to execute and deliver to the **Taxpayer** any and all documents as may be required to effectively withdraw and cancel the **FAN**

> dated 16 February 2013 and the FDDA dated 28 February 2014.
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> Section 5. **Authority to Enter Compromise Agreement**. The **BIR**, through Commissioner Caesar R. Dulay warrants that he 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.
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> The **TAXPAYER** through its President, Mr. Stewart L. Ong, similarly warrants that he is duly authorized by the Board of Directors of the **TAXPAYER** and has full legal capacity to enter, sign, and execute this Agreement, and to deliver payment of the above-agreed Compromise Amount.
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> **Section 6. Full and Final Settlement**. This Agreement is executed by the **PARTIES** for the purpose of amicably settling and ending CTA Case No. 8833 and the Petitions filed related thereto. Upon performance by the **TAXPAYER of its obligations and under Section 1 hereof, the BIR** recognizes the full satisfaction of the supposed tax liability of the **TAXPAYER** in connection with CTA Case No. 8833 and acknowledges that the **TAXPAYER** no longer has any tax liability whatsoever based upon, arising from or in connection with the particular subject of CTA Case No. 8833.
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> xxx xxx xxx

Under the Civil Code and in the Revised Rules of Court, courts are directed to persuade litigants in civil cases to agree upon some fair compromise. Such agreement has the force of law and is conclusive between the parties.[7]

A compromise agreement that is basically intended to resolve a matter already under litigation is what would normally be termed a judicial compromise. Once it stamped

[7] *Viesca vs. Gilinsky*, G.R. No. 171698, July 4, 2007.

with judicial imprimatur, it becomes more than a mere 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 other judgment.[8]

Acting on the subject Judicial Compromise Agreement, the Court *En Banc* finds that the same is not contrary to law, morals, public order and public policy. Hence, the Court *En Banc* approves the same.

WHEREFORE, the parties' *Joint Motion for the Approval of the Judicial Compromise Agreement* is hereby **GRANTED**. The Judicial Compromise Agreement entered into by the parties is **APPROVED** and judgment is hereby rendered in accordance therewith. The parties are enjoined to faithfully comply with all the terms and conditions of the aforesaid Judicial Compromise Agreement.

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

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

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[8] *Armed Forces of the Philippines Mutual Benefit Association, Inc. vs. Court of Appeals*, G.R. No. 126745, July 26, 1999.

MA. BELEN RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Judgment on Compromise Agreement were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice