REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

KEPCO PHILIPPINES CORPORATION,
Petitioner,

- versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1698
(CTA Case No. 8761)

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COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

KEPCO PHILIPPINES CORPORATION,
Respondent.

CTA EB No. 1699
(CTA Case No. 8761)

Present:

DEL ROSARIO, *PJ,*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:

MAY 15 2018 3:46 p.m.

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RESOLUTION

On March 27, 2018, the Court ordered Kepco Philippines Corporation (Kepco) to submit the following documents, in relation to its *Manifestation and Motion to Render Judgment on the Case Based on the Parties' Compromise Settlement Under Section 204(A) of the National Internal Revenue Code:*[1]

[1] *Rollo*, CTA EB No. 1698, pp. 192-197.

1) Original or certified true copies of the payment forms and proof of payments made;

2) Document showing OIC-ACIR Alfredo V. Misajon's authority to issue the Certificate of Availment; and

3) Other supporting schedules regarding the deficiency taxes compromised and the amounts paid.[2]

On April 13, 2018, Kepco filed its *Compliance and Manifestation* submitting the following:

1) Certified true copy of Revenue Delegation Authority Order No. 6-2007 (RDAO 6-2007), showing Mr. Alfredo V. Misajon's authority to sign Kepco's Certificate of Availment as the Assistant Commissioner of Internal Revenue (ACIR), of the Bureau of Internal Revenue's (BIR) Collection Service;[3]

2) The Formal Letter of Demand (FLD) that the BIR issued against Kepco for taxable year 2006, as well as the Final Decisions on Disputed Assessment (FDDAs) that the BIR issued for taxable years 2007 and 2009;[4] and

3) Original computerized print-outs of the Payment Forms (BIR Form No. 0605) showing Kepco's total compromise payment to the BIR, in the amount of Php260,848,425.79.[5]

In its *Manifestation and Motion*, filed on December 19, 2017, Kepco asserts that it availed of the BIR's compromise settlement program under Section 204(A) of the 1997 National Internal Revenue Code, as amended (NIRC), and implemented by Revenue Regulations No. 30-2002, as amended. Kepco's application for compromise included the tax assessments for taxable year 2009, which is the subject of the instant consolidated cases.

Kepco asserts that it has paid the following compromise amounts for taxable year 2009:

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[2] *Rollo*, pp. 254-256.
[3] *Rollo*, pp. 263-266.
[4] *Rollo*, pp. 267-281.
[5] *Rollo*, pp. 296-315.

Tax Type	Amount of Basic Tax in FDDA	Compromise Amount Paid	Date Paid	Compromise Rate
VAT	35,036,103.19	14,014,441.28[6]	1/17//2017	72.74%
		11,470,692.28[7]	5/16/2017	
WG (Withholding Tax- VAT and Other Percentage Taxes)	27,769,598.67	11,107,839.47[8]	1/17/2017	100%
		16,661,759.20[9]	10/19/2017	
Final Withholding Tax	69,423,996.67	27,769,598.67[10]	1/17/2017	40%
Total	**132,229,698.53**	**81,024,330.90**		

Kepco also states that the application for compromise was approved by the National Evaluation Board (NEB) on December 11, 2017, as shown by the Certificate of Availment (Compromise Settlement) CAC201700000422 issued on said date; and, that in view of said approval, Kepco prays that the consolidated cases of CTA EB Nos. 1698 and 1699 be closed and terminated.

In its *Compliance and Manifestation*, and in response to this Court's Resolution dated March 27, 2018, Kepco states that under RDAO 6-2007, the ACIR for Collection Service is authorized to sign the certification documenting/proving the approval of the compromise settlement of cases entrusted to the National Evaluation Board (NEB); and, that what was delegated was merely the CIR's power to sign the Certificate of Availment and not his power to compromise. Kepco also provided schedules[11] of the total assessments, compromise amounts paid, and compromise rates for taxable years 2006, 2007, and 2009.

The Commissioner of Internal Revenue (CIR), on the other hand, in his *Manifestation* filed on February 26, 2018 merely stated that he has no objection to Kepco's *Manifestation and Motion* only for the purpose of the compromise settlement and without necessarily admitting the defenses raised by Kepco against its deficiency tax liabilities. am

[6] *Rollo*, Annex J, pp. 226-229.
[7] *Rollo*, Annex K, pp. 230-232.
[8] *Rollo*, Annex G, pp. 215-218.
[9] *Rollo*, Annex H, pp. 219-221.
[10] *Rollo*, Annex I, pp. 222-225.
[11] *Rollo*, pp. 259-261.

The Court finds Kepco's submissions that: (1) outline the payments of compromise settlement for taxable year 2009 in the total amount of Php81,024,330.90, as shown in the table above; (2) prove that the payments comply with the minimum compromise rate of at least 40% of the basic tax involved; and, (3) confirm the approval of the compromise by the NEB, as evidenced by the Certificate of Availment, in order.

WHEREFORE, the compromise payments having complied with the minimum amounts set in Section 204(A) of the NIRC and approved by the National Evaluation Board; and, there being no objection from the Commissioner of Internal Revenue, the instant cases docketed as CTA EB Nos. 1698 and 1699 are hereby **CLOSED** and **TERMINATED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice