REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

ST. FRANCIS SQUARE REALTY CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9782

Members:

DEL ROSARIO, *P.J., Chairperson, and*
MANAHAN, *JJ.*

Promulgated:
JAN 19 2021 11:23 am

x- x

JUDGMENT BY COMPROMISE AGREEMENT

MANAHAN, *J.*:

On February 19, 2020, the parties filed a *Joint Motion for Judgment Based on Compromise Agreement* praying for the approval of the attached Judicial Compromise Agreement.

On March 9, 2020, the Court issued a Resolution directing the parties to submit the originals or certified true copies of the following documents:

a. Application for compromise citing the factual and legal compliance with the provisions of Section 204 (A) of the 1997 NIRC, as amended, as implemented by relevant rules and regulations;

b. Proof of approval of the compromise settlement by the majority of the members of the National Evaluation Board (NEB) as well as concurrence thereon by the Commissioner of Internal Revenue (CIR);

c. Certificate of Availment (BIR Form No. 2342) signed by the CIR pursuant to Revenue Memorandum Order No. 003-17 dated February 1, 2017: and

d. Certificate of Board Resolution authorizing Luke C. Roxas to represent petitioner in entering into a Judicial Compromise with the CIR relative to its deficiency taxes for taxable year 2009.

Pending the submission of the foregoing documents, the Court held in abeyance the resolution of the *Joint Motion for Judgment Based on Compromise Agreement.*

On September 24, 2020, petitioner filed a *Motion to Admit Partial Compliance* pursuant to the directive of the Court in the Resolution dated March 9, 2020 and attaching therewith the following documents:

1. Certified True Copy of the Offer of Compromise Settlement dated August 6, 2019; and

2. Original Notarized Secretary's Certificate authorizing the corporation's President, Mr. Luke Roxas, to execute and sign the compromise agreement with the Bureau of Internal Revenue (BIR).

On October 8, 2020, the Court granted petitioner's *Motion to Admit Partial Compliance* and admitted the aforesaid documents. In that same Resolution, the Court granted an additional period of ten (10) days from notice to submit the other documents requested by the Court.

On November 3, 2020, respondent filed a *Motion for Extension of Time to Submit Proof of NEB Approval* requesting for an additional period of thirty (30) days or until December 2, 2020 within which to submit the approval of the NEB.

On November 20, 2020, the Court granted respondent's *Motion for Extension of Time to Submit Proof of NEB Approval.*

Meanwhile, on November 11, 2020, respondent filed his *Compliance* attaching therewith a certified true copy of the *Certificate of Availment* signed by the Commissioner of Internal Revenue (CIR) showing that the compromise agreement on the deficiency tax assessments of petitioner for taxable year 2009 was approved by the NEB.

In view of the submission of the required documents, we now proceed to analyze the *Judicial Compromise Agreement* and the documents submitted by the parties in support thereof.

The Judicial Compromise Agreement partly reads as follows:

"WHEREAS, the BIR issued to the TAXPAYER Formal Letter of Demand (FLD) and Assessment Notices dated January 6, 2015 for the taxable year ending December 31, 2009 assessing the TAXPAYER deficiency for an aggregate amount of Php60,412,785.27, inclusive of interests and surcharges;

WHEREAS, the TAXPAYER filed a Letter-Protest and Request for Reinvestigation on February 4, 2015 addressed to Mr. Nestor S. Valeroso, OIC-Asst Commissioner Large Taxpayers Service;

WHEREAS the BIR issued a Final Decision on Disputed Assessment (FDDA) with Details of Discrepancies dated December 18, 2015 for deficiency income tax, expanded withholding tax, value-added tax and documentary stamp tax in the total amount of Php52,197,453.28;

WHEREAS, the taxpayer filed a letter dated February 3, 2016 requesting for reconsideration of the FDDA;

WHEREAS, the BIR issued a Letter-Denial on the said request for reconsideration, and reiterated the deficiency assessment in the reduced amount of Php13,782,209.42;

WHEREAS, the TAXPAYER instituted an action against the BIR entitled "St. Francis Square Realty Corporation vs. CIR", docketed as CTA Case No. 9782, pending before the Honorable First Division of the Court of Tax Appeals ("CTA"), praying that judgment be rendered declaring null and void the assessment issued in the aggregate amount of Php13,782,209.42, inclusive of increments;

WHEREAS, the TAXPAYER has submitted to the BIR an Offer for Compromise Settlement on August 8, 2019 for the alleged deficiency tax assessments contained in the Letter-Denial;

WHEREAS, the BIR has evaluated the TAXPAYER'S proposal for amicable settlement and submits that a judicial compromise be approved to allow immediate tax collection and also put an end to litigation as provided in the Civil Code of the Philippines, 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 of the Philippines, jurisprudence, relevant decisions of the Honorable CTA, and relevant laws on judicial compromise without contravening law, morals, public order and public policy;

xxx xxx xxx

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 the BIR has accepted the total payment of Php2,259,704.88 ("Judicial Compromise Amount") (40% of deficiency Income Tax and Value-Added Tax and 100% of deficiency Documentary Stamp Tax).

Section 2. Submission to the Honorable CTA. This Agreement fully signed by the PARTIES shall be submitted for the approval of the Honorable CTA in CTA Case No. 9782. 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 by Compromise Agreement in the said case.

Section 3. Effectivity of the Agreement. This Agreement shall take effect and bind the PARTIES upon approval 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 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 and fully implement the provisions of this Agreement, withdrawing and cancelling the FLD, FDDA and Letter-denial for the taxable year 2009.

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.

The TAXPAYER warrants that Luke C. Roxas 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 additional amount. *ar*

Section 6. Full and Final Settlement. This Agreement is executed by the PARTIES for the purpose of amicably settling and ending CTA Case No. 9782. Upon approval by the court, the BIR recognizes the full satisfaction of the supposed tax liability of the TAXPAYER in connection with CTA Case No. 9782 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. 9782.

Section 7. Disapproval of this 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 curing period, the PARTIES mutually agree to perform any and all acts necessary to rectify or correct the deficiency, defect or imperfection which caused its disapproval, 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 within the said curing period, or still not approved by the Honorable CTA after it is rectified or corrected by the parties:

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

2. The proceedings of CTA Case No. 9782 shall continue and the discussions pursuant to the disapproved Agreement cannot be used by the PARTIES in said proceeding unless consent of the other party be obtained.

Section 8. No admission of Liability. The execution of this Agreement shall not constitute or be interpreted in any way as an admission or acknowledgment of error or liability by the PARTIES.

Section 9. 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 or order of the Honorable CTA approving the same.

Section 10. 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, the Agreement shall have no effect and no party shall have any right or obligation hereunder."

xxx xxx xxx

ST. FRANCIS SQUARE REALTY CORPORATION	**BUREAU OF INTERNAL REVENUE**
By:	By:
LUKE C. ROXAS President	**CAESAR R. DULAY** Commissioner

RULING OF THE COURT

Section 204(A) of the 1997 National Internal Revenue Code (NIRC), as amended, provides:

> "SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* -
>
> The Commissioner may -
>
> (A) Compromise the payment of any internal revenue tax, 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 assessed tax.
>
> The compromise settlement of any tax liability shall be subject to the following minimum amounts:
>
> For cases of financial incapacity, a minimum compromise rate equivalent to ten percent (10%) of the basic assessed tax; and
>
> For other cases, a minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.
>
> Where the basic tax involved exceeds One million pesos (P1,000.000) or where the settlement offered is less than the prescribed minimum rates, the compromise shall **be subject to the approval of the Evaluation Board which shall be composed of the Commissioner and the four (4) Deputy Commissioners."** (emphasis supplied)

Based on the above-cited provision, the requisites for a valid compromise agreement are the following: *an*

1. The application for compromise is based on either the doubtful validity of respondent's assessment or taxpayer's financial incapacity to pay such assessment;

2. In case the basis of the compromise offer is doubtful validity, the minimum payment of compromise settlement shall be at the rate equivalent to forty percent (40%) of the basic assessed tax and, if the ground is financial incapacity, the minimum payment should be at the rate equivalent to ten percent (10%) of the basic assessed tax; and

3. The approval of the NEB which is composed of the respondent and his four (4) Deputy Commissioners if the subject assessment exceeds One Million pesos (P1,000.000) or where the settlement offered is less than the prescribed minimum rates.

Implementing the foregoing section of the 1997 NIRC, as amended, Revenue Regulations (RR) No. 30-2002 dated December 16, 2002, as amended by RR No. 8-2004, or the "**Revenue Regulations Implementing Section 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**," provides for those cases that may be compromised or not, to wit:

> 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 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. *[initials]*

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.

The records of this case show, particularly the Judicial Compromise Agreement submitted by the parties, that the application for compromise settlement was grounded on doubtful validity of respondent's tax assessment.[1]

Section 3 of RR No. 30-2002, as amended, provides the instances when the ground of doubtful validity of assessment exists which include, *inter alia*, when "the assessment seems to be arbitrary in nature, appearing to be based on presumptions and there is reason to believe that it is lacking in legal and/or factual basis" or "assessments made based on the Best Evidence Obtainable Rule and there is reason to believe that the same can be disputed by sufficient and competent evidence."

In the Petition for Review filed with this Court on March 8, 2018, petitioner assailed the deficiency tax assessments pertaining to taxable year 2009 for having been issued beyond the three (3) year prescriptive period because the validity of the Waivers of the Defense of Prescription ("waivers') executed by the parties was only up to December 31, 2014 while the Formal Letter of Demand with the corresponding assessment notices were issued only on January 6, 2015. Petitioner also challenged the factual and legal bases of the assessments and maintained that it has no undeclared sales contrary to respondent's assertions in the FLD, the Final Decision on Disputed Assessment (FDDA) and finally in the Letter of Denial dated February 6, 2018.

In respondent's Answer to the Petition for Review, he reiterated his position in his Letter of Denial dated February 6, 2018 that the conclusion of undeclared sales was a result of the discrepancies uncovered by a comparison of petitioner's summary list of sales to the Summary Alphalist of Withholding Tax (SAWT) and summary list of purchases (SLP) per Audit Information, Tax Exemption and Incentives Division (AITEID) data in the total amount of Php1,994,202.32.

---

[1] Judicial Compromise Agreement as an attachment to the Joint Motion for Judgement Based on Compromise Agreement signed by both parties, Volume II, Court Docket.

As to petitioner's allegation that respondent's right to assess petitioner's deficiency taxes for taxable year 2009 has already prescribed, respondent maintains that the fourth waiver executed by petitioner validly extended the period to assess to not later than June 30, 2015, hence the FLD and the corresponding assessment notices issued on January 6, 2015 were well within the period agreed upon.

The disquisitions and arguments propounded by the parties relative to the deficiency tax assessments for taxable year 2009 show that the validity thereof was clearly put in issue.

Based on the foregoing, the first requisite under Section 204(A) of the 1997 NIRC, as amended, pertaining to the ground of doubtful validity is complied with.

As to the second requisite pertaining to the amount of compromise payment, the submitted Compromise Agreement which reflected the amount indicated in the letter signed by CIR Caesar R. Dulay dated February 6, 2018 [2] denying petitioner's request for reconsideration consisted of the following internal revenue taxes and their corresponding basic tax assessments, to wit:

Tax Type	Basic Tax	Surcharge	Interest	Total
Income Tax	P580,743.35	0.00	P856,439.64	P1,437,182.99
Value-Added Tax	4,766,953.86	0.00	7,242,719.02	12,009,672.88
Documentary Stamp Tax	120,626.00	30,156.50	184,571.05	335,353.55
Total	**5,468,323.21**	**30,156.50**	**8,283,729.71**	**13,782,209.42**

Based on the Judicial Compromise Agreement [3] prepared by the parties, the amount of compromise settlement to be paid by the petitioner is Php2,259,704.88, computed as follows:

Tax Type	Basic Tax	Compromise Rate	Compromise Amount
Income Tax	Php 580,743.35	40%	Php 232,297.34

[2] Paragraph 7 of the parties' Joint Stipulation of Facts and Issues, Volume II, Court Docket, pp.382- 391.
[3] Judicial Compromise Agreement as an attachment to the Joint Motion for Judgement Based on Compromise Agreement signed by both parties, Volume II, Court Docket.

Value-Added Tax	4,766,953.86	40%	1,906,781.54
Documentary Stamp Tax	120,626.00	100%	120,626.00
Total	**5,468,323.21**		**Php2,259,704.88**

Applying the 40% compromise amount under Section 204(A) of the 1997 NIRC, as amended, in the instant case, the computation for the compromise amount of settlement as shown above is in accordance with the said provision of the 1997 NIRC, as amended.

Thus, the correct computation of the amounts of compromise settlement payable and their subsequent payment by petitioner constitute compliance with the second requisite.

As to the last requisite, the Court notes that there is sufficient compliance with the law by respondent's submission of a certified true copy of the *Certificate of Availment* dated October 26, 2020 which states that petitioner's application of compromise settlement has been approved by the NEB which is more than the required majority vote under Section 204 (A) of the 1997 NIRC, as amended.

With the faithful observance by the parties of all the requisites under Section 204(A) of the 1997 NIRC, as amended, the Court hereby grants the Judicial Compromise Agreement submitted by the parties.

In the case of *Far East Bank and Trust Co. et al. v. Trust Union Shipping Corp. et al.*,[4] the Supreme Court explains the effect of a compromise agreement, to wit:

> **"A compromise is a contract whereby the parties**, by making reciprocal concessions, **avoid litigation or put an end to one already commenced.** It is an accepted and desirable practice in courts of law and administrative tribunals. Settlement of disputes brought before the courts is, in fact, encouraged.
>
> It is settled that contracting parties may establish such stipulations, clauses, terms and conditions as they deem convenient, provided that these are not contrary to law, morals, good customs, public order, or public policy." (Emphasis supplied)

---

[4] G.R. No. 154716, September 16, 2008.

Further, in the case of *Conchita A. Sonley v. Anchor Savings Bank/Equicom Savings Bank,*[5] the Supreme Court ruled that once the compromise agreement is submitted to the Court and the latter has given its *imprimatur* thereof, it has the force and effect of a judgment, to wit:

> "Corollary thereto, once submitted to the court and stamped with judicial approval, a compromise agreement becomes more than a mere private 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 judgment."

WHEREFORE, in light of the foregoing considerations, the parties' *Joint Motion for Judgment Based on Compromise Agreement* is hereby **GRANTED.**

Accordingly, the Judicial Compromise Agreement entered into by the parties is **APPROVED** and this Judgment on Compromise Agreement is hereby rendered in accordance therewith. The parties are hereby enjoined to faithfully comply with all the terms and conditions of the aforesaid Judicial Compromise Agreement.

This case is now deemed **CLOSED** and **TERMINATED.**

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

[5] G.R. No. 205623, August 10, 2016.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Judgment 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