REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

ESTATE OF HENRY T. LAO, represented by its Administrator, JOSE T. LAO,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10562

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

JUN 13 2025
2:00 p.m.

x - x

RESOLUTION

MANAHAN, *J.*:

For this Court's resolution is petitioner's *Motion for Reconsideration* filed through accredited courier service on January 23, 2025 and received by the Court on January 24, 2025, with respondent's *Comment/Opposition (Re: Motion for Reconsideration dated 23 January 2025)* filed on March 12, 2025.

For easy reference, the dispositive portion of the assailed Decision[1] reads:

> "**WHEREFORE**, the instant Petition for Review is **DENIED**, for lack of merit.
>
> **SO ORDERED**."[2]

In its motion, petitioner argues that: (1) the subject Letter of Authority (LOA) was not issued in connection with the judicial settlement of estate proceedings; (2) petitioner availed of the compromise settlement because the subject assets were held hostage through garnishment; (3) the LOA is invalid; (4) the

[1] Docket, Vol. II, pp. 524-540.
[2] See Note 1, p. 539.

appeal was timely filed; (5) even assuming that the petition was not filed on time, the Final Decision on Disputed Assessment (FDDA) cannot gain finality because of the invalidity of the LOA; and (6) the compromise agreement was properly documented.

On the other hand, respondent counters that: (1) appeal to the Court of Tax Appeals (CTA) is lost and Section 229 of the 1997 National Internal Revenue Code (NIRC), as amended, may not be availed to defeat the law; (2) the assessment is final; and (3) due process was observed.

To encapsulate, the issue to be resolved by the Court is whether petitioner may claim for refund the amount paid by virtue of a compromise agreement with respondent Commissioner of Internal Revenue (CIR).

After careful consideration of the merits, the Court finds the instant motion unmeritorious.

Prefatorily, after revisiting the pieces of evidence submitted by the parties, particularly respondent's Bureau of Internal Revenue (BIR) Records collectively marked as Exhibit "R-8," the Court agrees with petitioner as to the existence of the documents denominated as follows: (1) Application for Compromise Settlement;[3] and (2) BIR Form No. 2342, otherwise known as "Certificate of Availment (Compromise Settlement).[4]

However, petitioner's claim for refund must still fail for reasons that will be discussed below.

A final and executory assessment cannot be reviewed through a claim for refund of the amount paid pursuant to a compromise agreement

On this score, the Court observes that while petitioner's cause of action involves a claim for refund, the same essentially disputes the subject Final Decision on Disputed Assessment (FDDA) dated May 31, 2019 by attacking the validity of

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[3] BIR Records, collectively marked as Exhibit "R-8," pp. 758-766.
[4] See Note 3, p. 771.

eLA201600007674 LOA-008-2018-00000297 dated September 21, 2013.

As discussed in the assailed Decision, the Court has jurisdiction over claims for refund of payments made in relation to compromise agreements, the latter being part of the "other matters" jurisdiction of the Court.[5]

While the Court has jurisdiction over claims for refund of payments made in relation to compromise agreements, such claim must be anchored on erroneous, excessive, or illegal assessment or collection.

In this regard, Section 229 of the 1997 NIRC, as amended, pertinently provides:

> "**SEC. 229.** ***Recovery of Tax Erroneously or Illegally Collected.*** - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been **erroneously** or **illegally** assessed or collected, or of any penalty claimed to have been **collected without authority**, of any sum alleged to have been **excessively** or in any manner **wrongfully collected** without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> xxx xxx xxx" *(Emphasis supplied)*

Thus, to successfully prosecute a claim for refund, it is incumbent upon the claimant to prove that there is an erroneous, excessive, or illegal assessment or collection by the CIR.

In this case, a perusal of the records shows that petitioner neither disputed the FDDA before the CIR nor filed an appeal before this Court. Instead, petitioner opted to avail the benefits of a compromise. Such failure of petitioner to dispute the assessment before the CIR or to appeal the same before this Court resulted to the finality of the assessment. Thus, the Court ruled in the assailed Decision that:

[5] See Note 1, pp. 530-532.

"The FDDA dated May 31, 2019 is final and executory

xxx xxx xxx

Again, records reveal that instead of filing a request for reconsideration with the CIR or an appeal, petitioner filed a request to avail compromise settlement for the release of CAR in relation to the judicial settlement of the estate proceedings.

In this regard, Section 228 of the 1997 NIRC, as amended, relevantly provides:

> "**SEC. 228. *Protesting of Assessment.*** - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a pre-assessment notice shall not be required in the following cases:
>
> xxx xxx xxx
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable."

Here, petitioner failed to appeal the FDDA within the statutory period. As provided in Section 228 of the 1997 NIRC, as amended, the failure of a taxpayer to appeal from an assessment on time renders the assessment final, executory

> and demandable. Consequently, petitioner is precluded from disputing the correctness of the assessment."[6]

In addition, the Supreme Court ruled in the case of *Brewery Properties, Inc. v. Commissioner of Internal Revenue*[7] that a taxpayer is precluded from questioning the validity of a final and executory assessment in the guise of claiming a refund. A claim for refund is not a valid substitute for the lost remedy of appeal to question an FDDA. Thus:

> "Since petitioner received the FDDA on 19 September 2012, petitioner had only until 19 October 2012 to file an appeal before the CTA to question the FDDA. Considering that petitioner did not exercise the remedy of appeal as provided in Section 228, the FDDA became final, executory and demandable. Petitioner is thereby precluded from questioning the legality or validity of the assessment in the guise of claiming a refund of the DST and penalties it paid under protest. Simply put, petitioner's administrative claim for refund is not a valid substitute for the lost remedy of appeal to question the final decision of the CIR on the disputed assessment."

Applying the ruling of the Supreme Court in the above-quoted case, petitioner's present claim for refund is not a valid substitute for the lost remedy of appeal to question the subject assessment.

Finally, "[A] compromise agreement has the effect of *res judicata* on the parties. Compromises are generally to be favored and those entered into in good faith cannot be set aside, except when there is mistake, fraud, violence, intimidation, undue influence, or falsity of documents."[8]

Here, aside from petitioner's bare allegation that the assets involved are being held hostage through alleged illegal garnishment, no other evidence was presented by petitioner to show circumstances of mistake, fraud, violence, intimidation, undue influence, or falsity of documents. To underscore, said Warrant of Garnishment was issued as a matter of course considering the finality of the assessment.

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[6] *See* Note 1, pp. 532-534.
[7] G.R. No. 239260, March 6 2023.
[8] *Kepco Philippines Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 225750-51, July 28, 2020.

Consequently, the Court finds no error when it concluded in the assailed Decision that:

> "Consequently, the present claim does not involve *any national internal revenue tax, penalty, or sum which have been erroneously or illegally collected*, as provided under Section 229 of the 1997 NIRC, as amended. Therefore, the denial of petitioner's refund claim is in order."[9]

Considering the foregoing, the Court finds no reason to deviate from the conclusion reached in the assailed Decision. Hence, the denial of the instant motion is in order.

FOR THESE REASONS, the instant *Motion for Reconsideration* is **DENIED**, for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

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[9] See Note 1, p. 539.