REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

ESCA INTERNATIONAL, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1980
(CTA Case No. 9648)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and,*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
DEC 04 2019
3:11 p.m.

x - x

DECISION

BACORRO-VILLENA, J.:

Before the Court is a Petition for Review[1], pursuant to Rule 8, Section 3(b)[2] of the Revised Rules of the Court of Tax Appeals

[1] Dated 03 January 2019, *Rollo*, pp. 1-44.
[2] **SEC. 3.** *Who may appeal; period to file petition.* –
...
(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

(RRCTA), filed by ESCA International, Inc. **(ESCA/petitioner)**. It seeks the reversal of the 13 July 2018[3] Resolution of this Court's First Division in CTA Case No. 9648, entitled *ESCA International, Inc. v. Commissioner of Internal Revenue,* dismissing its Petition for Review but declaring as final the tax deficiency assessment against it, and the 15 November 2018[4] Resolution that denied its Motion for Reconsideration (**MR**) thereon.

FACTS OF THE CASE

On 13 August 2014, petitioner received a Letter of Authority (**LOA**) dated 21 July 2014, from Regional Director Alfredo Misajon of Revenue Region No. 7 of the Bureau of Internal Revenue (**BIR**). The LOA authorized Revenue Officer (RO) Marcel Bayan (Bayan) and Group Supervisor (GS) Nenita Crespo (Crespo) to examine petitioner's books of accounts and other accounting records for all internal revenue taxes. Thereafter, petitioner received the First Request for Presentation of Records (FRPR) issued by Revenue District Officer Rosemarie V. Ramos-Ragasa (**RDO Ragasa**) to follow up petitioner's submission of the documents or records and to allow the assigned revenue officer to conduct the required examination of petitioner's tax liabilities.

On 26 August 2014, petitioner complied with the requirements. Later on, it received a Second and Final Notice (SFN) from RDO Ragasa, reiterating the request for presentation of books of accounts, records and other pertinent data for verification of the tax liabilities for taxable year 2013.

Still later or on 24 October 2016, petitioner received a copy of the Preliminary Assessment Notice (**PAN**) stating among others that, after due investigation, it was found that there was a deficiency expanded withholding tax (**EWT**) due from it for 2013; consisting of the basic tax due of ₱173,638.69 and an additional interest of ₱97,332.81, in the total amount of ₱270,971.50. Almost two (2) months after or on 01 December 2016, petitioner received a Formal Letter of Demand (**FLD**) where its EWT liability was indicated to have reached a total of ₱275,062.71.

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3 Division Docket, Volume 1, pp. 543-545.
4 Id., Volume II, pp. 584-592.

On 14 December 2016, petitioner disputed the FLD and filed its Request for Reconsideration (**Tax Protest**). However, six (6) months later, it was issued with a Preliminary Collection Letter (**PCL**) requesting payment of deficiency EWT for 2013 in the amount of ₱275,062.71. Immediately, petitioner wrote the BIR manifesting that it filed a Tax Protest which the BIR did not however receive hence, the PCL was issued. Petitioner then sent a copy of the Tax Protest to the Assessment Division but the BIR proceeded to issue a Final Notice Before Seizure (**FNBS**) against it.

PROCEEDINGS BEFORE THE FIRST DIVISION

Subsequently or on 11 August 2017, petitioner filed its Petition for Review, docketed as CTA Case No. 9648[5], praying that respondent's following issuances and that of his agents be cancelled, namely: (1) PAN[6] dated 21 October 2016; (2) FLD[7] dated 14 November 2016; (3) PCL[8] dated 05 June 2017; and, (4) FNBS[9] dated 17 July 2017, all of which held petitioner liable for deficiency EWT liabilities in the amount of ₱275,062.71. The case was raffled to the Court's First Division.

During the course of the trial, petitioner filed a Motion to Withdraw Petition for Review[10] (**motion to withdraw**) dated 16 May 2018, alleging that its Petition for Review had been rendered moot after its payment of deficiency EWT liabilities to BIR in the amount of ₱43,773.71, as evidenced by a payment form[11] and tax payment confirmation[12] (issued by the BIR, both dated 02 May 2018).

In resolving petitioner's motion to withdraw, the First Division noted that petitioner's subsequent payment of the EWT could not have rendered its Petition for Review moot considering the large discrepancy between the amount in the case involved and the amount

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5 Id., Volume I, pp. 10-35.
6 Exhibit "P-6", *Rollo*, p. 89.
7 Id., p. 92.
8 Annex K of the Petition for Review, id., p. 100.
9 Annex M, id., p. 110.
10 Division Docket, Volume I, pp. 526-528.
11 Annex "A" of the Motion to Withdraw Petition for Review, id., p. 530.
12 Annex "B", id., p. 531.

petitioner actually paid to BIR.[13] Although the First Division allowed the withdrawal of petitioner's Petition for Review, it declared the decision of the Commissioner of Internal Revenue (**CIR/respondent**) holding petitioner liable for the amount of ₱275,062.71 to be final and executory. The 13 July 2018 Resolution of the First Division reads:

> ...
>
> **WHEREFORE,** premises considered, petitioner's "**Motion to Withdraw Petition for Review**" is **GRANTED** and the Petition for Review filed on August 11, 2017 is **DISMISSED**. Accordingly, the case is **CLOSED** and **TERMINATED.** The Assessment Notice and Formal Letter of Demand dated November 14, 2016 are hereby declared **FINAL** and **EXECUTORY.**
>
> ...

Aggrieved by the First Division's action, petitioner filed its Motion for Reconsideration and/or Amendment of *Nunc Pro Tunc* Judgment[14], contending that the subsequent compromise reached by it and respondent decreasing the former's tax liability to ₱43,773.71 had rendered its judicial protest moot and academic. Petitioner argued further that due to the CIR's issuance of a Final Decision on Disputed Assessment (**FDDA**) and the Amended Assessment Notice (**AAN**) in the above-stated amount and petitioner's payment thereof, there was already a valid settlement of the case. Petitioner also disclosed that, prior to the institution of its appeal to this Court, it had filed a Request for Reconsideration on 20 July 2017 with the CIR (after its receipt of the FNBS which became the basis of the issuance of the FDDA and AAN).

Unconvinced by petitioner's argument, the First Division denied petitioner's MR in its Resolution[15] dated 15 November 2018, stating that the BIR's issuance of FNBS was to be considered as a denial of petitioner's Tax Protest; the effect of which would render respondent's assessment final and executory if it were not for petitioner's timely filing of its Petition for Review. The AAN and FLD's final and executory nature therefore took effect when petitioner subsequently withdrew its Petition for Review.

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13 Supra at note 3.
14 Dated 07 August 2018, Division Docket, Volume I, pp. 546-552.
15 Id., Volume II, pp. 584-593.

In addition, the First Division held that the parties' compromise agreement was invalid since petitioner's tax liability was reduced below 40% of the original assessed amount *without* the approval of the Regional Evaluation Board (**REB**); in violation of Section 204[16] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, which states:

> ...
> **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.
> ...

The First Division further noted petitioner's deliberate forum shopping, in clear breach of Section 5[17], Rule 7, in relation to Section

16 Sec. 204(A), National Internal Revenue Code of 1997, as amended; emphasis supplied.

17 *Sec. 5. Certification against forum shopping.* — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and[,] (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without

6[18], Rule 43 of the Rules of Court, when it concealed its pending Request for Reconsideration or Tax Protest before the BIR (that is, even after upon filing its appeal with this Court).

Hence, the present petition.

ISSUE

Petitioner submits a sole issue for the Court *En Banc's* determination, to wit:

> WHETHER OR NOT THE HONORABLE COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN FINDING THE ASSESSMENT NOTICE AND FORMAL LETTER OF DEMAND DATED 14 NOVEMBER 2016 ISSUED BY RESPONDENT BIR IS FINAL AND EXECUTORY.

In its bid for a favorable action from the Court *En Banc*, petitioner now argues that respondent retained jurisdiction to decide its Tax Protest and the issuance of the FDDA and AAN holding it liable for a deficiency EWT liability of ₱43,773.71 (during the pendency of the case before the First Division) was a valid exercise of respondent's power pursuant to Sections 2[19] and 4[20] of the NIRC of 1997, as

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prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

18 *Sec. 6. Contents of the petition.* — The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and[,] (d) contain a sworn certification against forum shopping as provided in the last paragraph of [S]ection 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

19 *Sec. 2. Powers and [D]uties of the Bureau of Internal Revenue.* - The Bureau of Internal Revenue shall be under the supervision and control of the Department of Finance and its powers and duties shall comprehend the assessment and collection of all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts. The Bureau shall give effect to and administer the supervisory and police powers conferred to it by this Code or other laws.

20 *Sec. 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

amended. Petitioner contends further that his prior Petition for Review before the First Division of this Court was the result of a mistaken belief that respondent's denial of its protest was already final. On this note, petitioner thus challenges this Court's jurisdiction to act on its previous petition, as it claims that its resort to judicial action was premature and the settlement of its tax liability left no justiciable controversy for this Court to consider. Lastly, petitioner claims that the 02 May 2018 FDDA should be regarded as the CIR's final decision pursuant to Section 288 of the NIRC of 1997, as amended, and that its payment of ₱43,773.71 should not be treated as a tax compromise. Petitioner adds that a different conclusion would inflict on it grave and irreparable injustice.

Without desiring to display complete concurrence with petitioner's arguments, respondent simply acknowledges petitioner's payment of the amount of ₱43,773.71 as settlement of its deficiency EWT liabilities.[21]

RULING OF THE COURT *EN BANC*

After an assiduous review of the records, the Court *En Banc* is constrained to deny petitioner's bid for the reversal of the assailed Resolutions of 13 July 2018 and 15 November 2018 of the First Division.

Foremost, this Court is rightfully vested with jurisdiction over petitioner's earlier Petition for Review (CTA Case No. 9648) with the First Division. Petitioner must be reminded that it was the one that invoked the jurisdiction of this Court when it filed its petition and alleged therein that respondent's issuance of the PCL and FNBS was an effectual denial of its administrative protest.[22] As the First Division correctly found, the arguments raised by petitioner on this matter were in accord with the Supreme Court's decisions in the cases of *Commissioner of Internal Revenue v. Ayala Securities Corporation et al.*[23] (**Ayala**) and *Commissioner of Internal Revenue v. Isabela Cultural Corporation*[24] (**Isabela**).

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.

21 Comment dated 21 February 2019, *Rollo*, pp. 242-244.

22 Supra at note 5, p. 12.

23 G.R. No. L-29485, 31 March 1976.

24 G.R. No. 172231, 12 February 2007.

In *Ayala*, the Supreme Court considered a PCL to be a reiteration of the BIR's demand and thus tantamount to a denial of the taxpayer's protest.[25] While in *Isabela*, it held that an FNBS cannot but be considered as the CIR's decision disposing of the request for reconsideration.[26] Surely enough, petitioner's only resort to prevent the BIR's assessment from becoming final and executory was to file an appeal *via* a petition for review before this Court, as it did. Therefore, petitioner's contention that the Court did not acquire jurisdiction over its case (as shown by respondent's issuance of an FDDA and AAN *litis pendentia*) is untenable. It is a basic tenet of law that courts acquire jurisdiction over the subject matter based on the allegations of the complaint[27] and not even subsequent law may divest it of jurisdiction in the absence of express prohibition.[28]

Moreover, petitioner's insistence that its payment of ₱43,773.71 EWT should not be seen as a compromise but rather as a settlement of its liability pursuant to the FDDA is devoid of merit. The finality of respondent's decision denying petitioner's protest through the service of a PCL and FNBS is undisputed as shown in petitioner's Petition for Review[29] and respondent's Answer[30] thereto. The parties did not also raise this issue in their Joint Stipulation of Facts and Issues (JSFI).[31] Petitioner only disclosed its filing of a Request for Reconsideration with respondent (prior to its appeal to this Court) in its MR and only after it found respondent's amended decision more favorable. Petitioner would be gravely mistaken to even think that the Court will allow it to shop around for remedies and benefit from violating the proscription against forum shopping.

At any rate, the FDDA issued, while the case was pending before the First Division, is tainted with irregularity as respondent had already previously denied petitioner's Tax Protest (with finality through the issuance of the FNBS). It must be stressed that not all final decisions of respondent come in the form of an FDDA as shown in the cases of *Ayala* and *Isabela*.

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25 Supra at note 23.
26 Supra at note 24.
27 *Sps. Romero v. Tan*, G.R. No. 147570, 27 February 2004.
28 *Philippine Long Distance Telephone Company v. Eastern Telecommunications Philippines, Inc.*, G.R. No. 163037, 06 February 2013.
29 Supra at note 5.
30 Division Docket, Volume I, pp. 111-113.
31 Id., pp. 487-490.

To determine whether a document constitutes a final decision of the CIR, the *Isabela* case suggests that its content and tenor be examined.[32] Just like in *Isabela,* herein petitioner was issued an FNBS, the title of which expressly indicated that it was a final notice prior to seizure of property.[33] A closer inspection of the document's contents would likewise reveal the following demand from the CIR - "we are giving you the last opportunity to make necessary settlement of the above-stated tax liability/ies within five (5) days from receipt of this notice..."[34] Therefore, the FNBS that petitioner received is, without any doubt, respondent's final decision. To remedy the denial, petitioner had no other recourse than to file an appeal with this Court in accordance with Section 228[35] of the NIRC of 1997, as amended, which reads:

> ...
> Sec. 228. *Protesting of Assessment.* - ...
> ...
> 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.
>
> **<u>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.</u>**
> ...

In supplement, Revenue Regulation (RR) No. 12-99[36], as amended by RR 18-2013[37], provides:

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32 Supra at note 24.

33 Id.

34 *Rollo*, p. 110, Annex M of the Petition for Review.

35 Emphasis and underscoring supplied.

36 Implements the provisions of the Tax Code of 1997 relative to the rules on assessment of national internal revenue taxes, fees and charges.

37 Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment; emphasis and underscoring supplied.

...

SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* –

...

3.1.4 ***Disputed Assessment.*** - The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:

(i) **Request for reconsideration** - refers to a plea of re-evaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.

(ii) **Request for reinvestigation** - refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that the taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.

...

If the taxpayer fails to file a valid protest against the FLD/FAN within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable. No request for reconsideration or reinvestigation shall be granted on tax assessments that have already become final, executory and demandable.

If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.

...

If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. Otherwise, the assessment shall become final, executory and demandable. A motion for reconsideration of the Commissioner's denial of the protest or administrative appeal, as the case may be,' shall not toll the thirty (30)-day period to appeal to the CTA.

...

The foregoing provisions could only yield that respondent, after issuing the FNBS, had no more authority to issue an FDDA as the function of the latter as a final demand had already been achieved (through the previous issuance of the FNBS). Petitioner's resort to file a request for reconsideration was therefore procedurally infirmed and respondent should not have acted on it. The bar on filing an MR against the final decision of the respondent has been confirmed in the case of *Fishwealth Canning Corporation v. Commissioner of Internal Revenue*[38] wherein the Supreme Court categorically held that a "Final Decision on Disputed Assessment issued by the Commissioner of Internal Revenue precludes the filing of a Motion for Reconsideration because the said Motion does not toll the thirty-day period within which the taxpayer may appeal the case before the Court of Tax Appeals."[39]

Consequently, petitioner's later payment of ₱43,773.71 and its allegation that the same serves as full settlement of its tax liabilities can only be deemed, as the First Division did, as a settlement pursuant to a compromise between petitioner and respondent. This now leaves the Court with determining the legality of the compromise agreement arrived at by the parties. Was the parties' compromise agreement valid? The Court *En Banc* does not think so.

Undoubtedly, respondent's power to compromise tax liabilities is provided by law[40], the nature of which this Court has no power to alter or remove. However, the propriety of how such power is exercised shall always fall within the scope of this Court's judicial review. In fact, the Supreme Court has long recognized the authority of this Court to determine the propriety of compromise agreements that respondent enters into. In *Philippine National Oil Company v. Court of Appeals*[41], the Supreme Court held:

> ...
> It is generally true that purely administrative and discretionary functions may not be interfered with by the courts; but **when the exercise of such functions by the administrative officer is tainted by a failure to abide by the command of the law, then it is incumbent on the courts to set matters right**, with this Court having the last say on the matter.

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38 G.R. No. 179343, 21 January 2010.
39 Emphasis supplied.
40 Supra at note 16.
41 G.R. Nos. 109976 and 112800, 26 April 2005; emphasis and underscoring supplied.

> The manner by which BIR Commissioner Tan exercised his discretionary power to enter into a compromise was brought under the scrutiny of the CTA amidst allegations of "grave abuse of discretion and/or whimsical exercise of jurisdiction." The discretionary power of the BIR Commissioner to enter into compromises cannot be superior over the power of judicial review by the courts.
>
> The **discretionary authority to compromise granted to the BIR Commissioner is never meant to be absolute, uncontrolled and unrestrained.** No such unlimited power may be validly granted to any officer of the government, except perhaps in cases of national emergency. In this case, **the BIR Commissioner's authority to compromise, whether under E.O. No. 44 or Section 246 of the NIRC of 1977, as amended, can only be exercised under certain circumstances specifically identified in said statutes. The BIR Commissioner would have to exercise his discretion within the parameters set by the law, and in case he abuses his discretion, the CTA may correct such abuse if the matter is appealed to them.**
>
> ...

The First Division, in deciding as it did in its assailed resolutions, merely scrutinized whether the compromise entered by the parties was executed in accordance with the law. Unfortunately for petitioner, the First Division found in the negative (but not without good reason).

In cases such as that of petitioner, it is clear from Section 204 of the NIRC of 1997, as amended, that a valid compromise requires that: (1) except for financial incapacity, the compromise rate must be equivalent to a minimum of 40% of the basic tax assessed; and, (2) in case of a settlement lower than the prescribed minimum, the compromise must be subject to the Evaluation Board's approval.[42]

The First Division observed correctly that petitioner's basic tax liability (as stated in the FLD) amounts to ₱173,638.69, making the compromise amount of ₱43,773.71 below the 40% minimum that the law requires. Given petitioner's basic tax liability, the minimum compromise amount should have been capped at ₱69,255.54, absent the REB's approval to lower the same. With neither party in the present controversy giving proof of such approval, the First Division

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42 See Section 204, NIRC.

was duty-bound to rule for the invalidity of the parties' compromise agreement.

Without thus a valid compromise agreement between petitioner and respondent, the grant of petitioner's withdrawal of its Petition for Review had the effect of rendering respondent's (appealed) decision final and executory.[43] Conversely put, petitioner's withdrawal of its petition resulted in respondent's denial of its protest by way of the PCL and FNBS, and are no longer reviewable on appeal. Consequently, respondent's prior assessment of deficiency EWT liabilities in the amount of ₱275,062.71, as reflected in the PAN, FLD, PCL, and FNBS issued to petitioner, is now unquestionably final, executory, and demandable. This holds true despite the respondent's subsequent issuance of the FDDA and AAN; the same being made in excess of his authority. Petitioner's payment of ₱43,773.71, with the acknowledgement of respondent's agents, does not likewise cure the compromise agreement of its inherent defect.

With the above disquisitions, the Court *En Banc* fails to find any cogent reason to reverse the assailed Resolutions dated 13 July 2018 and 15 November 2018 of the First Division, respectively.

WHEREFORE, the foregoing considered, petitioner's Petition for Review dated 03 January 2019, assailing the 13 July 2018 and 15 November 2018 Resolutions of the First Division in CTA Case No. 9648, entitled *ESCA International, Inc. v. Commissioner of Internal Revenue,* is **DENIED** for lack of merit. Both resolutions are **AFFIRMED**, accordingly.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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43 *Central Luzon Drug Corporation v. Commissioner of Internal Revenue*, G.R. No. 181371, 02 March 2011.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA 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 Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice