REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

TVI RESOURCES DEVELOPMENT (PHILS.), INC., Petitioner,	**CTA CASE NO. 10327**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 12 2022 9:50 a.m.

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JUDGMENT BASED ON COMPROMISE AGREEMENT

CASTAÑEDA, JR., *J.*:

For resolution of the Court are the following:

1. PMC-CTA's **Mediator's Report, Successful Settlement** with attached Complete Compromise Agreement, filed on June 3, 2021; and

2. Respondent's **Compliance**, filed on October 26, 2021.

On August 20, 2020, petitioner filed a Petition for Review, praying that judgment be rendered:

1. Declaring void all the deficiency tax assessments for taxable year 2013 against Petitioner in the total amount of ₱175,455,936.87 for: Jc

a. Being issued beyond the prescriptive period to assess taxes; and

b. Being issued without a valid letter of authority.

2. After trial on the merits:

a. Reversing the Final Decision on Disputed Assessments of Respondent for lack of factual and legal basis; and

b. Declaring void all the deficiency tax assessments for taxable year 2013 against Petitioner in the total amount of ₱175,455,936.87, for lack of factual and legal basis.

On January 13, 2021 petitioner moved to refer the case to mediation. In the Resolution dated February 18, 2021, the Court referred the case to mediation in the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA).

After the termination of the mediation proceedings, the PMC-CTA forwarded on June 3, 2021 the Mediator's Report **PMC-CTA's Mediator's Report,** signed by (Ret.) Justice Amelia R. Cotangco-Manalastas, stating that there has been a successful settlement in this case. Attached to the said Report are the following supporting documents, *viz*:

1. Agreement to Mediate and Selection of Mediator dated March 15, 2021 (original copy);

2. Selection of Mediator dated March 15, 2021 whereby the parties selected (Ret.) Justice Amelia R. Cotangco-Manalastas to be the Mediator in the instant case (original copy);

3. Secretary's Certificate dated January 13, 2021, signed by petitioner's Corporate Secretary, Ms. Rebecca R. De Guzman-De Guzman, whereby the petitioner's Board of Directors appointed and authorized: (a) its Controller, Ms. Erma M. Abalos, as its representative, to sign, verify, certify and file any and all pleadings for and on behalf of the

Corporation including Affidavits, Certifications, Compromise Agreement and such other documents as may be necessary in the resolution of the aforementioned case; and (b) Ortiz & Bandon Law Offices, and any of its lawyers to represent the Corporation at any stages of the proceedings or other incidents which may arise therefrom with the power and authority to consider, among others, the possibility of an amicable settlement or of submission to arbitration (original);

4. Special Power of Attorney dated May 12, 2021, signed by the Bureau of Internal Head Revenue Executive Assistant - Enforcement Advocacy Service, Mr. Felix Paul R. Velasco III, whereby he authorized and appointed Atty. Sylvia R. Alma Jose, Atty. Ayesha Hania Guiling-Matanog, Atty. Clarissa J. Virtudes-Babaran and/or any lawyer from Litigation Division of the BIR to enter into an amicable settlement, to submit to alternative dispute resolution, to enter into stipulations or admissions of facts and of documents and perform all or any acts as may be necessary in the conduct of the Pre-Trial Conference in the abovementioned case (original copy);

5. Appearance of Parties for the May 24, 2021 Mediation Conference (original copy);

6. Compromise Agreement dated April 24, 2021, signed by petitioner's duly authorized representative, Ms. Erma M. Abalos, and respondent Commissioner of Internal Revenue, Caesar R. Dulay, and attested by (Ret.) Justice Amelia R. Cotangco-Manalastas (original copy);

7. Payment Form (BIR Form No. 0605) with attached electronic Filing and Payment System (eFPS) Filing Reference dated April 13, 2021 and BPI BIR Transaction Report with the payment of ₱2,460,625.46 for IT for the taxable year ending December 31, 2013 (print-out);

8. Payment Form (BIR Form No. 0605) with attached electronic Filing and Payment System (eFPS) Filing Reference dated April 13, 2021 and BPI BIR

Transaction Report with the payment of ₱10,315,352.16 for VT for the taxable year ending December 31, 2013 (print-out);

9. Payment Form (BIR Form No. 0605) with attached electronic Filing and Payment System (eFPS) Filing Reference dated April 13, 2021 and BPI BIR Transaction Report with the payment of ₱9,597,522.19 for WF for the taxable year ending December 31, 2013 (print-out);

10. Payment Form (BIR Form No. 0605) with attached electronic Filing and Payment System (eFPS) Filing Reference dated April 13, 2021 and BPI BIR Transaction Report with the payment of ₱6,372,511.73 for WG for the taxable year ending December 31, 2013 (print-out);

11. Payment Form (BIR Form No. 0605) with attached electronic Filing and Payment System (eFPS) Filing Reference dated April 13, 2021 and BPI BIR Transaction Report with the payment of ₱4,281,396.48 for WE for the taxable year ending December 31, 2013 (print-out);

12. Payment Form (BIR Form No. 0605) with attached electronic Filing and Payment System (eFPS) Filing Reference dated April 13, 2021 and BPI BIR Transaction Report with the payment of ₱2,619,427.44 for DS for the taxable year ending December 31, 2013 (print-out); and

13. Payment Form (BIR Form No. 0605) with attached electronic Filing and Payment System (eFPS) Filing Reference dated April 13, 2021 and BPI BIR Transaction Report with the payment of ₱704,746.49 for XM for the taxable year ending December 31, 2013 (printout).

In the Resolution dated June 29, 2021, the Court noted that while the Compromise Agreement was signed by respondent, there is nothing in the records which would indicate that it was approved by a majority of the members of the National Evaluation Board (NEB), as required under Section 204 of the National Internal Revenue Code of 1997 (NIRC), as amended and its implementing rules and regulations, Revenue Regulations (RR) No. 30-2002, as amended by RR No. 09-2013. Hence, the Court ordered the parties to submit within a period of thirty (30) days from notice hereof, the original or certified true copy of the Certificate of Availment showing approval of the Compromise Agreement by the NEB (with attached signature page showing the approval by the majority of the members of the NEB composed of the Commissioner and the four Deputy Commissioners).

In his Compliance filed on October 26, 2021, respondent submitted a Certified True Copy of the Certificate of Availment dated October 19, 2021, showing the approval of the NEB of the compromise settlement of deficiency Income, Value-Added, Expanded Withholding, Final Withholding, Value-Added Withholding, Penalty for late remittance of EWT, Excise, Documentary Stamp, and Miscellaneous taxes, and the signature page showing the approval of the members of the NEB.

The Court notes respondent's Compliance.

Considering the submission of the above documents, the Court shall now act on the PMC-CTA's Mediator's Report of Successful Settlement and the parties' Compromise Agreement.

The Compromise Agreement partly reads:

> **"Compromise Agreement**
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> xxx xxx xxx
>
> **WHEREAS,** on August 20, 2020, TVI filed a Petition for Review challenging the validity of the Final Decision on Disputed Assessment (FDDA for brevity) issued by CIR in connection with its deficiency tax assessments for taxable year 2013. In the FDDA, TVI was required to pay the basic deficiency taxes due in the amount of EIGHTY SIX MILLION FIVE HUNDRED FIFTY ONE THOUSAND THREE HUNDRED EIGHTY FIVE PESOS AND FIFTY SEVEN CENTAVOS (PhP86,551,385.57).
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> **WHEREAS**, during the mediation proceedings before the Philippine Mediation Center – Court of Tax Appeals, TVI has offered to amicably settle the case for **THIRTY SIX MILLION THREE HUNDRED FIFTY ONE THOUSAND FIVE HUNDRED**

EIGHTY ONE PESOS AND NINETY FOUR CENTAVOS (Php36,351,581.94) to avoid prolonged litigation, and as authorized in A.M. No. 11-1-05-SC-PHILJA.

NOW THEREFORE, in view of the provisions in Section 204 of the Tax Code, as amended, **TVI** has offered and CIR has accepted the amount of **THIRTY SIX MILLION THREE HUNDRED FIFTY ONE THOUSAND FIVE HUNDRED EIGHTY ONE PESOS AND NINETY FOUR CENTAVOS** (PhP36,351,581.94), representing Forty Two percent (42%) of the basic tax deficiencies assessed, as full satisfaction of the 2013 tax assessment subject to the approval of the Honorable Court of Tax Appeals.

IN WITNESS WHEREOF, the Parties hereto have mutually and voluntarily accepted the above stipulations, and sign this Agreement, at Quezon City on this 24th day of April 2021 for the consideration and approval of the Honorable Court.

TVI RESOURCES DEVELOPMENT(PHILS.) INC. *Petitioner*	**COMMISSIONER OF INTERNAL REVENUE** *Respondent*

By:

(SGD.) **ERMA M. ABALOS** *Controller/Duly Authorized Representative*	(SGD.) **CAESAR R. DULAY** *Commissioner*

ATTESTED by:

(SGD.)
(RET.) JUSTICE AMELIA R. COTANGCO - MANALASTAS
Mediator"

Under Article 1306 of the Civil Code of the Philippines, contracting parties may establish such stipulations, clauses, terms, and conditions, as they may deem convenient, provided that they are not contrary to law, morals, good customs, public order, or public policy. A compromise agreement is a contract whereby the parties make reciprocal concessions, avoid litigation, or put an end to one already commenced. It is an accepted, even desirable and encouraged, practice in courts of law and administrative tribunals.[1]

A compromise agreement is a contract whereby the parties make reciprocal concessions in order to resolve their differences and, thus, avoid or put an end to a lawsuit. They adjust their difficulties in the manner they have agreed upon, disregarding the possible gain in litigation and keeping in mind that such gain is balanced by the danger of losing. It must not be contrary to law, morals, good customs and public policy, and must have been freely and intelligently executed by and between the parties. A compromise agreement may be executed in and out of court. Once a compromise agreement is given judicial approval, however, it becomes more than a contract binding upon the parties. Having been sanctioned by the court, it is entered as a determination of a controversy and has the force and effect of a judgment.[2]

In this regard, Section 204(A) of the National Internal Revenue Code of 1997, as amended, also provides that for cases other than financial incapacity, the minimum compromise rate is forty percent (40%) of the basic assessed tax. And in case the basic tax exceeds ₱1,000,000.00 or where the settlement offered is less than the said prescribed minimum rates, the compromise must be approved by the Evaluation Board, which is composed of respondent and the four (4) Deputy Commissioners of the BIR.

Relative thereto, Section 6 of Revenue Regulations (RR) No. 30-2002[3], as last amended by RR No. 9-2013[4], provides:

> "SEC. 6. APPROVAL OF OFFER OF COMPROMISE. - Except for offers of compromise where the approval is delegated to the REB pursuant to the succeeding paragraph, all compromise settlements within the jurisdiction of the National Office (NO) shall be approved by a majority of all the members of the NEB composed of the Commissioner and the four (4) Deputy Commissioners. All decisions of the NEB, granting the

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[1] *California Manufacturing Company, Inc. vs. The City of Las Piñas, et al.,* G.R. No. 178461, June 22, 2009.

[2] *David vs. Paragas,* G.R. No. 176973, February 25, 2015.

[3] SUBJECT : Revenue Regulations Implementing Sections 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.

[4] SUBJECT : Amending Certain Provisions of Revenue Regulations No. 30-2002

> request of the taxpayer or favorable to the taxpayer, shall have the concurrence of the Commissioner.
>
> xxx xxx xxx
>
> The compromise offer shall be paid by the taxpayer upon filing of the application for compromise settlement. No application for compromise settlement shall be processed without the full settlement of the offered amount. In case of disapproval of the application for compromise settlement, the amount paid upon filing of the aforesaid application shall be deducted from the total outstanding tax liabilities."

Based on the foregoing, a compromise settlement falling within the jurisdiction of the NEB is valid if the same was approved by a majority of all the members of the NEB, and that there was a full settlement of the offered amount.

Considering the PMC-CTA Mediator's Report of Successful Settlement with the attached Compromise Agreement, the Certificate of Availment (Compromise Settlement),[5] certifying that petitioner's application for compromise settlement of deficiency Income, Value-Added, Expanded Withholding, Final Withholding, Value-Added Withholding, Penalty for late remittance of Expanded Withholding, Excise, Documentary Stamp, and Miscellaneous taxes amounting to ₱175,455,936.87 under the FDDA dated July 1, 2020, covering taxable period 2013, (the subject matter of the instant case) has been approved by the NEB, with the attached signature page,[6] likewise showing the approval signatures of four (4) Deputy Commissioners and of respondent, as well as the payment forms showing proof of complete payment of the compromise amount[7] and the Secretary's Certificate showing the authority of the person who signed the compromise agreement for petitioner,[8] the Court finds the same in order and in compliance with the established laws, rules and regulations. Accordingly, the Court approves the compromise agreement.

WHEREFORE, premises considered, the **PMC-CTA's Mediator's Report** and respondent's **Compliance** are **NOTED.**

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[5] Attached to respondent's Compliance filed on October 26, 2021.
[6] Attached to respondent's Compliance filed on October 26, 2021.
[7] Attached to the PMC-CTA Mediator's Report filed on June 3, 2021.
[8] Attached to the PMC-CTA Mediator's Report filed on June 3, 2021.

Accordingly, the **Compromise Agreement** entered into by the parties and attached to the report is **APPROVED** and judgment is hereby rendered in accordance therewith. The parties are thus enjoined to faithfully comply with all the terms and conditions of the aforesaid Compromise Agreement.

Hence, this case is now deemed **CLOSED AND TERMINATED**.

SO ORDERED.

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

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

INHIBITED
LANEE S. CUI-DAVID
Associate Justice

ATTESTATION

I attest 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.

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

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

ROMAN G. DEL ROSARIO
Presiding Justice