REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2025** (CTA Case No. 8993)
- versus –	
FIRST PHILIPPINE UTILITIES CORPORATION, Respondent.	

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FIRST PHILIPPINE UTILITIES CORPORATION, Petitioner,	**CTA EB NO. 2030** (CTA Case No. 8993)
- versus -	Present: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 13 2021 11:45am

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JUDGMENT ON COMPROMISE AGREEMENT

For resolution are the following:

1) The parties' "Joint Motion for Judgment Based on Compromise Agreement"[1], filed on February 23, 2021; and

[1] Rollo, pp. 160-161.

2) Commissioner of Internal Revenue's "Compliance"[2], filed on June 14, 2021.

"Compliance" filed on June 14, 2021

On May 20, 2021, a Resolution[3] was issued:

1) noting Commissioner of Internal Revenue's "Compliance"; and

2) ordering the Commissioner of Internal Revenue to submit within fifteen (15) days from notice, a proof supporting the approval of the compromise agreement by the National Evaluation Board ("NEB") of the Bureau of Internal Revenue (BIR) pursuant to Section 204 of the National Internal Revenue Code (NIRC) of 1997, as amended and Section 6 of Revenue Regulations ("RR") No. 30-2002.

On June 14, 2021, the Commissioner of Internal Revenue filed a "Compliance" submitting a certified true copy of the signature page of the Certificate of Availment showing the fact that the Compromise Agreement on the deficiency tax assessments covering taxable year 2009 of First Philippine Utilities Corporation was approved by the NEB.

The Court **NOTES** said "Compliance".

We now proceed to resolve the "Joint Motion for Judgment Based on Compromise Agreement".

"Joint Motion for Judgment Based on Compromise Agreement" filed on February 23, 2021

On September 17, 2020, the Court *En Banc* received a "Mediator's Report" (PMC-CTA Form 5) dated September 15, 2020, signed by (Ret.) Justice Rodrigo V. Cosico stating that there was successful settlement between the parties.[4]

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2 *Id.*, pp. 180-181.
3 *Id.*, pp. 167-179.
4 *Id.*, pp. 108-122.

In the Resolutions dated November 03, 2020[5], January 07, 2021[6], January 29, 2021[7], and May 20, 2021[8], the Court required the parties to submit a copy of the Compromise Settlement with the date when the same was signed by the parties, proof that a majority of all the members of the NEB approved the compromise agreement, and other documents proving that Petitioner has availed of the provisions of RR No. 30-2002.

In compliance with the said Resolutions, the parties filed on February 18, 2021[9] and June 14, 2021[10], the following documents:

1) a certified true copy of the Certificate of Availment No. CAC201700013433[11] dated January 21, 2021 signed by Clavelina S. Nacar, OIC-Assistant Commissioner Head of TWG on Compromise, pertaining to the 2009 deficiency tax assessments of First Philippine Utilities Corporation, amounting to Php289,733,393.80;

2) an original copy of the Compromise Agreement[12] duly signed by both parties on September 01, 2020 and attested by (Ret.) Justice Rodrigo V. Cosico as mediator;

3) BIR Payment Form (BIR Form No. 0605)[13] dated August 24, 2020 showing payment of Php69,883,551.78 compromise, in full satisfaction of the 2009 tax assessment against First Philippine Utilities Corporation; and

4) a certified true copy of the signature page[14] of the Certificate of Availment showing the fact that the Compromise Agreement on the deficiency tax assessments covering taxable year 2009 of First Philippine Utilities Corporation was approved by the NEB.

Section 6 of RR No. 30-2002, as amended by RR No. 9-2013, provides, to wit:

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5 *Id.*, pp. 127-130.
6 *Id.*, pp. 141-143.
7 *Id.*, pp. 146-149.
8 *Id.*, Compliance dated February 18, 2021, pp. 150-153.
9 *Id.*, Compliance dated June 14, 2021, pp. 183.
10 *Id.*, pp. 167-179.
11 *Id.*, p. 154.
12 *Id.*, pp. 155-156.
13 *Id.*, pp. 157-159.
14 *Id.*, p. 184.

"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 request of the taxpayer or favorable to the taxpayer*, shall have the concurrence of the Commissioner.

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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."

The "Compromise Agreement" states as follows:

"WHEREAS, on February 23, 2015, FPUC filed a Petition for Review (CTA Case No. 8993) challenging the validity of the Final Decision on Disputed Assessment issued by respondent Commissioner of Internal Revenue in connection with deficiency tax assessments for taxable year 2009, the aggregate sum of which amounts to Two Hundred Eighty-Nine Million Seven Hundred Thirty-Three Thousand Three Hundred Ninety-Three Philippine Pesos and Seventy-Nine Centavos ([Php]289,733,393.79) together with the penalties and interest. Under the Final Decision on Disputed Assessment, FPUC was required to pay the basic tax due in the amount of One Hundred Fifty-Three Million Seven Hundred Sixty-Seven Thousand One Hundred Three Philippine Pesos and Fifty-Six Centavos ([Php]153,767,103.56).

WHEREAS, the Court of Tax Appeals 2nd Division rendered a Decision dated on November 5, 2018 in CTA Case No. 8993, which cancelled the deficiency income tax and miscellaneous tax assessments and ordered FPUC to pay only the basic DST assessment in the aggregate amount of One Hundred Thirty-Nine Million Seven Hundred Sixty-Seven Thousand One Hundred Three Philippine Pesos and Fifty-Six Centavos ([Php]139,767,103.56) without interest and penalties.

WHEREAS, on April 2019, both [p]arties filed their respective Petitions for Review with the Court of Tax Appeals *En*

> *Banc* to appeal the Decision of the Court of Tax Appeals 2nd Division, which case was docketed as CTA EB Case [Nos. 2025 and 2030].
>
> WHEREAS, during mediation proceedings before the Philippine Mediation Center – Court of Tax Appeals for CTA EB Case [Nos. 2025 and 2030], FPUC has offered to amicably settle the case for Sixty-Nine Million Eight Hundred Eighty-Three Thousand Five Hundred Fifty-One Philippine Pesos and Seventy-Eight Centavos ([Php]69,883,551.78), representing fifty percent (50%) of the basic DST assessment, to avoid prolonged litigation, as authorized by A.M. No. 11-1-05-SC-PHILJA.
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> NOW THEREFORE, in view of the limitation in Section 204 of the 1997 National Internal Revenue Code, FPUC has offered and the Commissioner of Internal Revenue has accepted the amount of Sixty-Nine Million Eight Hundred Eighty-Three Thousand Five Hundred Fifty-One Philippine Pesos and Seventy-Eight Centavos ([Php]69,883,551.78), representing [fifty percent (50%)] of the basic tax assessed, as full satisfaction of the 2009 tax assessment subject to the approval of the Honorable Court of Tax Appeals."

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.[15]

Finding the subject compromise agreement to be in order and in compliance with established laws, rules and regulations, taking into consideration the documents submitted by the parties in support thereof, the same is approved.

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

The Compromise Agreement dated September 01, 2020 is **APPROVED** and judgment is hereby rendered in accordance therewith. Accordingly, the

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[15] David M. David v. Federico M. Paragas, Jr., G.R. No. 176973, February 25, 2015.

proceedings in the instant consolidated cases are considered **CLOSED** and **TERMINATED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
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 Judgment on Compromise Agreement were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice