REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

ASIAN TRANSMISSION CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8476

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

JUL 0 5 2023 8:30 AM

x --- x

JUDGMENT ON COMPROMISE AGREEMENT

CUI-DAVID, J.:

Before this Court is the parties' *Joint Motion for Approval of Compromise Agreement (Joint Motion)* filed on January 27, 2023, praying that the instant *Joint Motion* be granted, the *Judicial Compromise Agreement* be approved, and that a decision be issued based on the said Compromise Agreement.

The antecedent facts, as quoted by the Supreme Court in *Asian Transmission Corp. v. Commissioner of Internal Revenue,*[1] follow:

> Asian Transmission Corp ("**ATC**") is a corporation duly organized and existing under Philippine Laws and with business address at Carmelray Industrial Park, Canlubang, Calamba City, Laguna. ATC is a manufacturer of motor vehicle transmission component parts and engines of Mitsubishi vehicles. It was organized and registered with the Securities and Exchange Commission on August 29, 1973 as evidenced by its Certificate of Incorporation.

---

[1] G.R. No. 230861, September 19, 2018.

[The CIR] is the Commissioner of the Bureau of Internal Revenue (BIR) with office address at BIR National Office Bldg., Agham Road, Diliman, Quezon City.

On January 3, 2003 and March 3, 2003, ATC filed its Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes and Annual Information Return of Creditable Income Taxed Withheld (Expanded)/Income Payments Exempt from Withholding Tax, respectively.

On August 11, 2004, ATC received Letter of Authority [(LOA)] No. 200000003557 where [the CIR] informed ATC that its revenue officers from the Large Taxpayers Audit and Investigation Division II shall examine its books of accounts and other accounting records for the taxable year 2002.

Thereafter, [the CIR] issued a Preliminary Assessment Notice (PAN) to ATC.

Consequently, on various dates, ATC, through its Vice President for Personnel and Legal Affairs, Mr. Roderick M. Tan, executed several documents denominated as "Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code" (Waiver), as follows:

Waiver	Source of Document	Date of Execution	Date of Extension of Investigation
First Waiver	Page 415, BIR Records	September 8, 2004	June 30, 2005
Second Waiver	Page 419, BIR Records	March 3, 2005	December 31, 2005
Third Waiver	Page 422, BIR Records	November 10, 2005	June 30, 2006
Fourth Waiver	Page 429, BIR Records	March 21, 2006	December 31, 2006
Fifth Waiver	Page 767, BIR Records	March 21, 2006	June 30, 2007
Sixth Waiver	Page 349, BIR Records	April 18, 2007	December 31, 2007
Seventh Waiver	Page 354, BIR Records	October 25, 2007	June 30, 2008
Eight[h] Waiver	Page 1176, BIR Records	May 30, 2008	December 31, 2008

Meanwhile, on February 28, 2008, ATC availed of the Tax Amnesty [P]rogram under Republic Act No. 9480.

On July 15, 2008, ATC received a Formal Letter of Demand from [the] CIR for deficiency [WTC] in the amount of P[hp]62,977,798.02, [EWT] in the amount of P[hp]6,916,910.51, [FWT] in the amount of P[hp]501,077.72.

On August 14, 2008, ATC filed its Protest Letter in regard thereto.

Accordingly, on April 14, 2009, ATC received the Final Decision on Disputed Assessment where [the] CIR found ATC liable to pay deficiency tax in the amount of P[hp]75,696,616.75. Thus, on May 14, 2009, ATC filed an appeal letter/request for reconsideration with [the] CIR.

On April 10, 2012, ATC received the Decision of [the] CIR dated November 15, 2011, denying its request for reconsideration. As such, on April 23, 2012, ATC filed the instant Petition for Review (with Application for Preliminary Injunction and Temporary Restraining Order).

Ruling of the CTA in Division

On November 28, 2014, the CTA in Division rendered its decision granting the petition for review of ATC. It held that ATC was not estopped from raising the invalidity of the waivers inasmuch as the Bureau of Internal Revenue (BIR) had itself caused the defects thereof, namely: (a) the waivers were notarized by its own employee despite not being validly commissioned to perform notarial acts; (b) the BIR did not indicate the date of its acceptance; (c) the BIR did not specify the amounts of and the particular taxes involved; and (d) respondent CIR did not sign the waivers despite the clear mandate of RMO 20-90 to that effect. It ruled that the waivers, being invalid, did not operate to toll or extend the three-year period of prescription.

The CTA in Division disposed:

> **WHEREFORE**, in view thereof, the Petition for Review is hereby **GRANTED**. Accordingly, the deficiency [WTC] in the amount of P[hp]67,722,419.38, [EWT] in the amount of P[hp]7,436,545.83 and [FWT] in the amount of P[hp]537,651.55, or in the total amount of P[hp]75,696,616.75 for the taxable year 2002, are hereby declared **CANCELLED**, **WITHDRAWN** and **WITH NO FORCE AND EFFECT**.
>
> **SO ORDERED**.

On December 16, 2014, the CIR moved for reconsideration, and ATC opposed.

On March 13, 2015, the CTA in Division denied the CIR's motion for reconsideration, to wit:

> **WHEREFORE**, premises considered, [the CIR's] Motion for Reconsideration is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**.

On April 20, 2015, the CIR filed a petition for review in the CTA *En Banc*.

Decision of the CTA *En Banc*

On August 9, 2016, the CTA *En Banc* promulgated the assailed decision reversing and setting aside the decision of the CTA in Division, and holding that the waivers were valid. It observed that the CIR's right to assess deficiency withholding taxes for CY 2002 against ATC had not yet prescribed. It disposed:

> **WHEREFORE**, premises considered, the Court hereby **GRANTS** the Petition for Review. Accordingly, the Decision promulgated on November 28, 2014 and the Resolution on March 13, 2015 by the Second Division are **REVERSED** and **SET ASIDE**. Let the case be **REMANDED** to the Court in Division for further proceedings in order to determine and rule on the merits of respondent's petition seeking the cancellation of the deficiency tax assessments for calendar year 2002 for withholding tax on compensation, expanded withholding tax, and final withholding tax in the aggregate amount of Php75,696,616.75.
>
> **SO ORDERED**.

On September 9 and September 16, 2016, ATC filed its motion for reconsideration and supplemental motion for reconsideration, respectively, but the CTA En Banc denied the motions for lack of merit.

ATC filed a *Petition for Review on Certiorari* dated May 8, 2017, with the Supreme Court. On September 19, 2018, the Supreme Court's First Division denied ATC's Petition. The dispositive portion reads:

> **WHEREFORE**, the Court **DENIES** the petition for review on certiorari; **AFFIRMS** the decision promulgated on August 9, 2016 by the Court of Tax Appeals En Banc in CTA EB No. 1289 (CTA Case No. 8476); and **ORDERS** the petitioner to pay the costs of suit.
>
> **SO ORDERED**.

ATC filed its *Motion for Reconsideration* on December 17, 2018, which was likewise denied by the Supreme Court in a Resolution promulgated on February 14, 2022. The dispositive portion follows:

> **WHEREFORE**, the present Motion for Reconsideration is **DENIED** for lack of merit.
>
> The Court shall not entertain further pleadings or motions in the case. Let entry of judgment be issued.
>
> **SO ORDERED**.

Following the remanding of the case to this Court, ATC filed its *Manifestation and Motion* on August 4, 2022, praying that the Court defer its judgment pending respondent's approval of its *Application for Compromise Settlement*. This was noted and granted by the Court in a *Resolution* dated September 5, 2022.

On November 25, 2022, both parties filed their *Joint Manifestation/Compliance*, which the Court again noted in a *Resolution* dated December 13, 2022.

On January 27, 2023, both parties filed their *Joint Motion for Approval of Compromise Agreement* with the following attachments:

1. Photocopy of the parties' *Judicial Compromise Agreement*; and

2. Photocopy of the Secretary's Certificate authorizing Mr. Edwin B. Celoso and Atty. Rose Lynn Zara-Coloma to "sign, deliver, and receive documents" in relation to the application for a judicial compromise settlement.

Following the Court's *Resolution* dated March 7, 2023, both parties submitted their *Compliance* on March 31, 2023, with the following attachments:

1. Original copy of the parties' *Judicial Compromise Agreement*;

2. Original copy of the Secretary's Certificate authorizing Mr. Edwin B. Celoso and Atty. Rose Lynn Zara-Coloma to "sign, deliver, and receive documents" in relation to the application for judicial compromise settlement;

3. Certified true copy of the Certificate of Availment (Compromise Settlement) (BIR Form No. 2342); and

4. Certified true copy of the approval by the members of the NEB of the Judicial Compromise Offer.

On May 10, 2023, the Court, through a *Resolution*, ordered the parties to submit the pertinent BIR Payment Form No. 0605 and the proof of payment of the compromise amount, to which petitioner complied with the filing of its *Compliance* on May 22, 2023.

Considering the submission of the aforesaid documents, the Court shall now resolve the parties' *Joint Motion for Approval of the Compromise Agreement.*

The subject *Judicial Compromise Agreement* reads as follows:

JUDICIAL COMPROMISE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This JUDICIAL COMPROMISE AGREEMENT ("Agreement") entered into by and between:

ASIAN TRANSMISSION CORPORATION ("ATC"), a domestic corporation organized and existing under the laws of the Philippines with office address at Carmelray Industrial Park I, Canlubang, Calamba City, Laguna, Philippines, as represented by Mr. Edwin Bolina Celoso, Division Manager of Finance Division, and/or Atty. Rose Lynn, Zara-Coloma, Vice President of Corporate Division, as evidenced by the Secretary's Certificate dated October 26, 2022 which is hereto attached as ANNEX "A"

-and-

BUREAU OF INTERNAL REVENUE ("BIR"), with principal office address at BIR Nation Office Building, Agham Road, Diliman, Quezon City, as represented by the Commissioner Of Internal Revenue, HON. ROMEO D. LUMAGUI JR.,

ATC and BIR shall hereinafter be referred to individually as a PARTY or collectively as the PARTIES,

WITNESSETH:

WHEREAS, the BIR issued a FINAL DECISION ON DISPUTED ASSESSMENT ("FDDA") dated 18 March 2009 requiring ATC to pay deficiency Withholding Tax on Compensation [("WTC")], Expanded Withholding Tax ("EWT") and Final Withholding Tax ("FWT") in the total amount of SEVENTY-FIVE MILLION SIX HUNDRED NINETY-SIX THOUSAND SIX HUNDRED SIXTEEN PESOS AND 75/100 inclusive of interest and a Warrant of Distraint and Levy ("WDL");

WHEREAS, on 17 April 2012, ATC filed a Petition for Review with the Court of Tax Appeals ("CTA"), docketed as CTA Case No. 8476, appealing and questioning the validity and/or legality of the WDL and seeking the cancellation of the FDDA for lack of factual and legal basis;

WHEREAS, in a letter dated 30 June 2022, ATC submitted an Offer for Compromise signifying its intention to enter into an amicable settlement with the BIR for the tax deficiencies in the FDDA;

WHEREAS, the BIR has evaluated ATC's proposal for amicable settlement and offer of compromise and agrees that a judicial compromise to allow immediate tax collection and put an end to a protracted, expensive and mutually prejudicial 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, relevant laws on judicial compromise, without contravening law, morals, public order and public policy;

WHEREAS, the Honorable CTA has issued rulings allowing judicial compromises similar to the instant case.

NOW, THEREFORE, for and in consideration of the foregoing premises, the PARTIES hereto have agreed as follows:

Section 1. Compromise Amount. In order to settle the above-mentioned case, ATC has offered, and the BIR has accepted, the total compromise amount of FIFTEEN MILLION SIXTY-THREE THOUSAND THREE HUNDRED FORTY-SIX AND 13/100 (Php15,063,346.13) comprising 45% of the basic taxes due ("Judicial Compromise Amount").

Section 2. Submission to the Honorable CTA. This Agreement duly signed by the PARTIES shall be submitted to the Honorable CTA in CTA case No. 8476 entitled "Asian Transmission Corporation vs. Commissioner of Internal Revenue" and the PARTIES undertake to perform any and all acts, and to submit any and all documents required by the Honorable CTA to render a Judgment by Compromise Agreement in the 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 fulfilment of the covenants and undertaking of the PARTIES thereto.

Section 4. Deliverables of the PARTIES upon approval of this Agreement. Upon final approval by the Honorable CTA of the terms of this Agreement, the BIR undertakes to execute and deliver to ATC any and all documents as may be required to implement the provisions of this Agreement and thereafter withdraw and cancel the FDDA.

Section 5. Authority to Enter Compromise Agreement. The BIR through Commissioner Romeo D. Lumagui Jr. warrants the she [sic] has the necessary authority and capacity under the law to enter into, sign and execute this Agreement, and to deliver its implementing documents upon its approval by the Honorable CTA.

ATC warrants that Mr. Edwin Bolina Celoso and/or Atty. Rose Lynn, Zara-Coloma are duly authorized by its Board of Directors and has full legal capacity to enter into, sign, and execute this Agreement, and to deliver payment of the Judicial Compromise Amount.

Section 6. Full and Final Settlement. This Agreement is executed by the PARTIES for the purpose of amicably settling and finally ending the CTA Case No. 8476. Upon approval by the Honorable CTA, the BIR recognizes the full satisfaction of the tax liabilities of ATC, including any interest, surcharge, and other penalties thereon, in connection with CTA Case No. 8476 and acknowledges that ATC no longer has any tax liability whatsoever based upon, arising from, or in connection with the particular subject matter of CTA Case No. 8476.

Section 7. Disapproval of this Agreement by the Honorable Court of Tax Appeals. In the event that the 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 all acts necessary to rectify or correct the deficiency, defect or imperfection. However, in case the deficiency, defect or imperfection is not or cannot be rectified or corrected:

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

2. The proceedings in CTA Case No. 8476 shall continue and non discussion or admission by either PARTY pursuant to the disapproved Agreement shall be used by either PARTY in said proceeding unless consent of the other PARTY is 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 either PARTY.

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/ action 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.

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.

IN WITNESS WHEREOF, the **PARTIES** have hereunto signed these presents on the date and at the place indicated hereunder.

ASIAN TRANSMISSION CORPORATION

By:

(Sgd)
EDWIN BOLINA CELOSO
Authorized Representative

BUREAU OF INTERNAL REVENUE

By:

(Sgd)
ROMEO D. LUMAGUI, JR.
Commissioner

Witnesses:

(Sgd)

(Sgd)

The instant case is a proper subject of a compromise agreement.

Section 204(A) of the NIRC of 1997, 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.

Implementing the foregoing section of the NIRC, Revenue Regulations ("**RR**") No. 30-2002, as amended by RR No. 8-2004, or the "*Revenue Regulation 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,*" provides for those cases that can be compromised, as follows:

> 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.

EXCEPTIONS:

1. **Withholding tax cases**, **<u>unless the applicant-taxpayer invokes provisions of law that cast doubt on the taxpayer's obligation to withhold</u>**;

xxx xxx xxx

(Emphasis and underscoring supplied)

Petitioner sought to amicably settle the alleged deficiency Withholding Tax on Compensation (WTC), Expanded Withholding Tax (EWT), and Final Withholding Tax (FWT) for the taxable year 2002.

Generally, withholding taxes may not be compromised unless the taxpayer invokes provisions of law that cast doubt on the taxpayer's obligation to withhold. Considering that one of the taxes sought to be compromised is WTC, EWT, and FWT, the Court finds it necessary to determine whether petitioner has invoked provisions of law that cast doubt on its obligation to withhold WTC, EWT, and FWT, which would make the said deficiency assessment *appropriate* subject to a compromise.

In its letter-application for compromise dated June 30, 2022,[2] petitioner has likewise alleged that it has no obligation to withhold WTC as the discrepancy found by respondent pertains to non-compensation items such as on-the-job training allowance, SSS contributions, PAGIBIG contributions, among others. Anent the deficiency EWT and FWT assessment, petitioner submits that the findings of respondent pertain to

---

[2] Annex "A", Petitioner's *Manifestation with Motion.*

amounts that had already been subjected to withholding. The above arguments were likewise alleged by petitioner in its *Petition for Review*[3] before this Court.

Given the foregoing findings/explanations and assertion of petitioner, the Court finds that petitioner sufficiently invoked provisions of the law that cast doubt on its obligation to withhold EWT, FWT, and WTC on the alleged income payments.

The requisites of a valid compromise have been complied with by both parties.

The Court will now determine whether the requisites for a valid compromise agreement are complied with.

Based on Section 204(A) of the NIRC of 1997, as amended, the following are the requisites of a valid compromise:

> 1. The application for compromise is based on either the doubtful validity of BIR's assessment or the 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, while 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 comprises the CIR and his four (4) Deputy Commissioners if the subject assessment exceeds One Million Pesos (Php1,000,000.00) or where the settlement offered is less than the prescribed minimum rates.

Based on respondent's letter application for compromise, the offer was based on the doubtful validity of the assessments.

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

---

[3] CTA Division Docket, Vol. I, pp. 6-29.

Moving on to the *second* requisite, that is the amount of compromise payment. Records reveal that the basic deficiency tax assessments have an aggregate amount of **P33,474,102.51** broken down as follows:

Type of Taxes	Basic Deficiency
WT-Compensation	29,961,709.21
WT-Expanded	3,281,434.04
WT-Final	230,959.26
Grand total	**33,474,102.51**

Petitioner's settlement offer is P15,063,346.13 or exactly forty-five (45) percent of the basic tax assessed. *We* note that the settlement offer is *above* the prescribed minimum rate of 40% for cases grounded on doubtful validity.

With this, We rule that the second requisite has been complied with.

As to the *third* requisite of having the same approved by the NEB, records show that the parties submitted certified true copies of the *Certificate of Availment* and its signature page showing the unanimous approval of the *Judicial Compromise Agreement* by the members of the NEB.

Thus, considering the faithful observance by the parties of all the requisites under Section 204(A) of the NIRC of 1997, as amended, the Court hereby grants the parties' *Joint Motion.*

The parties are reminded that a compromise agreement, once approved by the courts, becomes more than a mere contract; it has the force and effect of a judgment that is subject to execution and attains the effect and authority of *res judicata*, as discussed by the Supreme Court in the case of *Viesca vs. Gilinsky*,[4] to wit:

> A compromise agreement has been described as a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced. A compromise agreement that is intended to resolve a matter already under litigation is normally called a judicial compromise. **Once it is stamped with judicial *imprimatur*, it becomes more than a mere contract binding upon the parties. Having the sanction of the court and entered as its determination of the**

[4] G.R. No. 171698, July 4, 2007.

> **controversy, it has the force and effect of any other judgment. Such agreement has the force of law and is conclusive between the parties. It transcends its identity as a mere contract binding only upon the parties thereto, for it becomes a judgment that is subject to execution in accordance with the Rules. Thus, a compromise agreement that has been made and duly approved by the court attains the effect and authority of res judicata**, although no execution may be issued unless the agreement receives the approval of the court where the litigation is pending and compliance with the terms of the agreement is decreed. (*Boldfacing supplied*)

WHEREFORE, premises considered, the parties' *Joint Motion for Approval of Compromise Agreement* is **GRANTED**. The entered by the parties is **APPROVED,** and this *Judgment on Compromise Agreement* is rendered accordingly. The parties are enjoined to faithfully comply with all the terms and conditions of the aforesaid Compromise Agreement.

Accordingly, this case is now deemed **CLOSED** and **TERMINATED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

x---x

CERTIFICATION

Pursuant to Section 13, Article VIII 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