REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

GARENA PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 9675**
-versus-	Members: **UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 10 2020 3:16 p.m.

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JUDGMENT ON COMPROMISE AGREEMENT

MODESTO-SAN PEDRO, J.:

For decision is the parties' Joint Motion (Re: Judicial Compromise Agreement) filed on 23 August 2019.[1]

In the Joint Motion, the parties manifest that they entered into a Judicial Compromise Agreement on 16 August 2019 where petitioner offered to pay and respondent accepted the amount of Twelve Million, Four Hundred Sixty Three Thousand, Three Hundred Twenty Four Pesos and Twenty Nine Centavos (Php12,463,324.29) as settlement (hereinafter referred to as "Judicial Compromise Amount") of petitioner's deficiency income tax, value-added tax ("VAT") and expanded withholding tax ("EWT") liabilities (collectively referred to as "assessed deficiency taxes") for taxable year 2012. Given the foregoing, the parties ask the Court to allow them to withdraw the instant Petition for Review.

In support of the Joint Motion, the petitioner on 28 August 2019 submitted the original copy of the Judicial Compromise Agreement.[2] The relevant portions of the Judicial Compromise Agreement are as follows:

> **"WHEREAS,** the **TAXPAYER** has submitted to the BIR a **Proposal for Amicable Settlement** dated March 6, 2019 for the alleged deficiency tax assessment contained in the **PCL**;
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> **WHEREAS,** the **BIR** has evaluated the **TAXPAYER'S** proposal for amicable settlement and believes that a judicial compromise to allow immediate tax collection and also put an

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1 See Joint Motion (Re: Judicial Compromise Agreement), Records Vol. 2, pp. 838-840.
2 See Judicial Compromise Agreement, Records Vol. 2, pp. 845-848.

end to 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, and relevant laws on judicial compromise without contravening law, morals, public order and public policy;

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WHEREAS, the **PARTIES,** for the purpose of avoiding and putting an end to a protracted, expensive and mutually prejudicial litigation, have agreed to amicably settle the above-mentioned case, upon terms and conditions hereinafter set forth;

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

Section 1. Judicial Compromise Amount. In order to settle the above-mentioned case, the **TAXPAYER** has offered and the **BIR** has accepted the total payment of **Php12,463,324.29 ("Judicial Compromise Amount").**

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Section 3. Effectivity of the Agreement. This **Agreement** shall take effect and bind the **PARTIES** upon approval of the Honorable CTA. This **Agreement** shall thereafter remain in force and effect until completion and fulfillment of the covenants and undertaking of the **PARTIES** hereto.

Section 4. Deliverables of the PARTIES upon approval of this Agreement by the Honorable CTA. Upon final approval by the Honorable CTA of this Agreement the BIR undertakes to execute and deliver to the Taxpayer any and all documents as may be required to effectively and fully implement the provisions of this Agreement, withdrawing and cancelling the **FAN** dated June 28, 2016 and **PCL** dated July 11, 2017.

Section 5. Authority to Enter Compromise Agreement. The **BIR,** through Commissioner Caesar R. Dulay warrants that he has the necessary authority and capacity under the law to enter, sign, and execute this Agreement, and to deliver its implementing documents upon its approval of the Honorable CTA.

The **TAXPAYER, JAN FREDERIC L. CHIONG,** is duly authorized by the Board of Directors of the **TAXPAYER** and has full legal capacity to enter, sign, and execute this Agreement, and to deliver payment of the above-agreed additional amount.

Section 6. Full and Final Settlement. This Agreement is executed by the **PARTIES** for the purpose of amicably settling and ending CTA Case No. 9675. Upon approval by the court, the BIR recognizes the full satisfaction of the supposed tax liability of the **TAXPAYER** in connection with CTA Case No. 9675 and acknowledges that the TAXPAYER no longer has any tax liability whatsoever based upon, arising from or in connection with the particular subject of CTA Case No. 9675."

On 11 September 2019, the Court issued a Resolution requiring petitioner to submit, within ten (10) days from notice, the proof of approval of the majority of the members of the National Evaluation Board ("NEB") and proofs of payment of the Judicial Compromise Amount.[3]

In partial compliance with the Resolution, the petitioner on 3 October 2019 submitted a computer print-out of the Payment Form and Payment Details from the Bureau of Internal Revenue's Electronic Filing and Payment System ("eFPS") with reference no. 291900031504932 amounting to Twelve Million Four Hundred Sixty Three Thousand Three Hundred Twenty Four Pesos and Twenty Nine Centavos (Php12,463,324.29) as proof of the full payment of the Judicial Compromise Amount.[4]

As for the proof of approval of the Judicial Compromise Agreement by the NEB, the petitioner opined that it was still being routed for signature to the members of the NEB. Petitioner manifested that considering the proof of approval of the Judicial Compromise Agreement will be coming from the respondent, the parties have agreed that it shall be the respondent who will furnish the Court with said proof. Given the circumstances, petitioner prayed for an additional period of thirty (30) days from 28 September 2019 or until 28 October 2019 for respondent to submit the proof of approval of the Judicial Compromise Agreement by the NEB.[5] The Court, in a Resolution dated 6 December 2019, granted the request of the petitioner.[6]

On 30 October 2019, respondent submitted a photocopy of the Certificate of Availment of Compromise Settlement dated 18 October 2019 as proof of approval of the Judicial Compromise Agreement by the NEB.[7]

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[3] See Resolution dated 11 September 2019, Records Vol. 2, pp. 865-866.
[4] See Compliance and Motion dated 27 September 2019, Records Vol. 2, pp. 867-874.
[5] *Id.*
[6] See Resolution dated 6 December 2019, Records Vol. 2, pp. 878.
[7] See Compliance dated 30 October 2019, Records Vol. 2, pp. 879-881.

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However, considering that the Certificate of Availment is a mere photocopy, the Court, in a Resolution dated 8 November 2019, ordered respondent to submit a certified true copy or duplicate notarized original of the Certificate of Availment.[8] In compliance with the said Order, respondent submitted a certified true copy of the Certificate of Availment on 18 November 2019.[9]

Thereafter, on 6 December 2019, the Court issued a Resolution ordering the petitioner to submit proof of authority of petitioner's signatory to enter into the Judicial Compromise Agreement with respondent.[10]

On 13 December 2019, the petitioner submitted the original notarized copy of a Secretary's Certificate authorizing Jan Frederic L. Chiong, president of petitioner, to enter into the Judicial Compromise Agreement with respondent.[11]

With the submission of said proof of authority, we shall now resolve the instant Joint Motion.

Section 204(A) of the National Internal Revenue Code of 1997, as amended, (hereinafter referred to as "Tax Code") allows the Commissioner of Internal Revenue ("CIR") to compromise internal revenue tax liabilities of taxpayers with outstanding receivable accounts and disputed assessments with the Bureau of Internal Revenue ("BIR") and the Courts, to wit:

> "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.
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> The compromise settlement of any tax liability shall be subject to the following minimum amounts:
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> For cases of financial incapacity, a minimum compromise rate equivalent to ten percent (10%) of the basic assessed tax; and

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8 See Resolution dated 8 November 2019, Records Vol. 2, pp. 883.

9 See Compliance dated 18 November 2019, Records Vol. 2, pp. 884-886.

10 See Resolution dated 6 December 2019, Records Vol. 2, pp. 888.

11 See Compliance dated 13 December 2019, Records Vol. 2.

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."

Based on the foregoing, a compromise settlement entered between the CIR and a taxpayer is valid upon satisfaction of the following requisites:

1. The application for compromise is based on either the doubtful validity of respondent's assessment or 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 which is composed of the respondent and his four (4) Deputy Commissioners if the subject assessment exceeds One Million pesos (P1,000,000) or where the settlement offered is less than the prescribed minimum rates.

As for the first requisite, Section 3 of Revenue Regulation No. 30-2002[12] provides for instances when an assessment's validity is considered reasonably doubtful. These instances include situations where "a taxpayer fails to file an administrative protest on account of the alleged failure to receive notice of assessment and there is reason to believe that the assessment is lacking in legal and/or factual basis",[13] or "when the demand notice allegedly failed to comply with the formalities prescribed under Sec. 228 of the Tax Code".[14]

The aforementioned instances are present in this case. A perusal of the case records will show that part of the grounds raised by the petitioner against respondent are: (a) the respondent's failure to issue a Formal Letter of Demand and Final Assessment Notice; and (b) the assessment are already barred by prescription. Hence, based on the foregoing, we find that the Judicial Compromise Agreement was entered into by the parties on the basis of doubtful validity of the assessment in compliance with the Tax Code.

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12 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, 16 December 2002.

13 Section 3(1)(c) of Revenue Regulation No. 30-2002.

14 Section 3(1)(f) of Revenue Regulation No. 30-2002.

As for the second requisite, the parties were able to prove with sufficient evidence that the Judicial Compromise Amount paid by the petitioner is equivalent to Forty Percent (40%) of petitioner's basic assessed deficiency taxes.

In the Preliminary Collection Letter,[15] the respondent assessed and initiated collection of petitioner's alleged basic assessed deficiency taxes for taxable year 2012 in the total aggregate amount of Thirty One Million, One Hundred Fifty Eight Thousand, Three Hundred Ten and Seventy Four Centavos (Php31,158,310.74).

In light of the Judicial Compromise Agreement, petitioner paid on 31 July 2019 through the BIR's eFPS facility the Judicial Compromise Amount equivalent to Forty percent (40%) of the basic assessed deficiency taxes amounting to Twelve Million Four Hundred Sixty Three Thousand Three Hundred Twenty Four Pesos and Twenty Nine Centavos (Php12,463,324.29), as shown in the Payment Form and Payment Details submitted by petitioner.

As for the third requisite, the parties submitted the Certificate of Availment which indicates the approval of the NEB of the Judicial Compromise Agreement.

Given the foregoing considerations, the Court finds the parties' Judicial Compromise Agreement to be in order, as the same has been validly executed by the parties, and the terms and conditions specified therein as not contrary to law, morals, good customs, public order, and public policy.

As a final note, the parties are reminded that a compromise agreement, once approved by the courts, becomes more than a mere contract, but 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*,[16] 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 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**

15 See Preliminary Collection Letter, Records Vol. 2, p. 545.
16 Viesca v. Gilinsky, G.R. No. 171698.

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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.

WHEREFORE, premises considered, the parties' Joint Motion (Re: Judicial Compromise Agreement) is hereby **GRANTED**. Accordingly, the Judicial Compromise Agreement entered into by the parties is **APPROVED** and judgment is rendered in accordance therewith. The parties are ordered to faithfully comply with all the terms and conditions of the aforesaid Judicial Compromise Agreement.

As such, the instant Petition for Review is considered **WITHDRAWN** and the instant case docketed as CTA Case No. 9675 is hereby considered **CLOSED** and **TERMINATED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

I attest 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's Division.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice