REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-*versus*-

ABRAHAM P. CUARESMA,
Accused.

CTA CRIM. CASE NO. O-798

Members:
UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

JUN 24 2020

9:22 a.m.

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RESOLUTION

For resolution is accused's Manifestation with Motion for Dismissal of the Case filed on 2 December 2019 (hereinafter referred to as "Motion") with plaintiff's Comment (To Accused's Manifestation with Motion for Dismissal of the Case dated November 28, 2019) filed on 13 December 2019 (hereinafter referred to as "Comment").

In his Motion, the accused manifests that in relation to the instant case, he had already availed of the Tax Amnesty on Delinquencies in accordance with ***Republic Act No. 11213*** or the ***"Tax Amnesty Act"*** and, therefore, prays for the dismissal of the case.

In its Comment, the plaintiff states that it was able to verify and obtain a Certification from the Office of the Revenue District Officer ("RDO") of Revenue District Office No. 28, Novaliches (East NCR) confirming accused's settlement of his alleged tax liabilities in the present case. It confirms that accused had already paid the amount of Php 724,909.58 which is equivalent to sixty percent (60%) of accused's basic tax liabilities pursuant to the Tax Amnesty Act.

On 12 February 2020, the Court issued a Resolution ordering the accused to submit the original copy or certified true copy of the Notice of Issuance of Authority to Cancel Assessment ("NIATCA"), or of the Tax Amnesty Return ("TAR"), Acceptance Payment Form ("APF"), and proof of payment of the Tax Amnesty. Likewise, plaintiff was required to submit the original copy or certified true copy of the Certification issued by the RDO.

Subsequently, on 2 March 2020, accused filed his Compliance with the attached original copies of the following documents:

1. Payment Slip from the Authorized Agent Bank ("AAB");
2. TAR;
3. APF; and
4. Certificate of Tax Delinquencies.

Meanwhile, on 27 February 2020, the plaintiff filed its Compliance with the attached original copy of the Certification issued by the RDO.

With the submission of the aforementioned original documents, the Court now resolves accused's Motion.

In *Commissioner of Internal Revenue v. Transfield Philippines, Inc.*, the Supreme Court discussed the nature of a tax amnesty, to wit:

> "A **tax amnesty operates as a general pardon or intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law**. It is an **<u>absolute forgiveness or waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate</u>**. A tax amnesty, much like a tax exemption, is never favored nor presumed in law. The grant of a tax amnesty is akin to a tax exemption; thus, it must be construed strictly against the taxpayer and liberally in favor of the taxing authority."[1]

On 14 February 2019, the Tax Amnesty Act was passed with the aim of enhancing revenue collection, minimizing administrative costs in pursuing tax cases, and the unclogging of dockets of the Bureau of Internal Revenue ("BIR") and the courts.[2] The Tax Amnesty Act has two components, the Estate Tax Amnesty and Tax Amnesty on Delinquencies.

The Tax Amnesty on Delinquencies covers the settlement of all national internal revenue taxes such as, but not limited to, income tax, withholding tax, capital gains tax, donor's tax, value-added tax, other percentage taxes, excise tax and documentary stamp tax for collection of the BIR.[3]

Sections 18 and 19, Title IV of the Tax Amnesty Act discuss the persons entitled and guidelines on how to avail of the Tax Amnesty on Delinquencies, to wit:

> "Section 18. Entitlement of Tax Amnesty on Delinquencies. - Any person may enjoy the immunities and privileges of the Tax Amnesty on Delinquencies and pay the following tax amnesty rates:
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> (a) Delinquencies and assessments which have become final and executory......... 40% of the basic tax assessed;
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> (b) Tax cases subject of final and executory judgment by the courts......... 50% of the basic tax assessed;

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1 Emphasis supplied.
2 Section 2(c), Title I of Republic Act No. 11213.
3 Section 17, Title IV of Republic Act No. 11213.

(c) Pending criminal cases with criminal information filed with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the National Internal Revenue Code of 1997, as amended, with assessments duly issued and otherwise excluded in Titles II and III hereof......... 60% of the basic tax assessed; and

(d) Withholding agents who withheld taxes but failed to remit the same to the Bureau of Internal Revenue......... 100% of the basic tax assessed.

Section 19. Availment of the Tax Amnesty on Delinquencies; When and Where to File and Pay. - Any person, natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall, **within one (1) year from the effectivity of the Implementing Rules and Regulations of this Act,** file with the appropriate office of the Bureau of Internal Revenue, which has jurisdiction over the residence or principal place of business of the taxpayer, **a sworn Tax Amnesty on Delinquencies Return accompanied by a Certification of Delinquency.** The payment of the amnesty tax shall be made at the time the Return is filed:

Provided, That the Revenue District Officer shall issue and endorse an **Acceptance Payment Form**, in such form as may be prescribed in the Implementing Rules and Regulations of this Act **authorizing the authorized agent bank, or in the absence thereof, the revenue collection agent or municipal treasurer concerned, to accept the amnesty tax payment:**

Provided, further, That the availment of the Tax Amnesty on Delinquencies and the issuance of the corresponding Acceptance Payment Form do not imply any admission of criminal, civil or administrative liability on the part of the availing taxpayer."[4]

Implementing the foregoing provisions is ***Revenue Regulation No. 04-19*** dated 5 April 2019 or the ***"Implementing Rules and Regulations of Republic Act No. 11213, Otherwise Known as the "Tax Amnesty Act," Providing for the Guidelines on the Processing of Tax Amnesty Application on Tax Delinquencies*** (hereinafter referred to as "RR No. 04-19") which provides for the procedure on how to avail of the Tax Amnesty on Delinquencies, to wit:

"C. **PROCEDURES** — The taxpayer-applicant shall:

Step 1. Secure the **Certificate of Delinquencies/Tax Liabilities from the concerned BIR Office** as specified below: xxx

Nature of Tax Liabilities	Large Taxpayer	Non-Large Taxpayer
Tax cases subject of final and executory	Litigation/Prosecution Division of the National Office, which handled the case	a. Legal Division of the Regional Office — For taxpayer-applicants under the jurisdiction of Revenue Region (RR) Nos. 5, 6, 7

[4] Emphases supplied.

judgment by the courts		and 8 (Caloocan, Manila, Quezon City and Makati, respectively); b. Legal Division of the Regional Office or Litigation/Prosecution Division in the National Office which handled the case – For taxpayer-applicants under the jurisdiction of Revenue Regions other than the RRs mentioned under (a) hereof.

xxx xxx xxx

Step 2. Present the duly **accomplished TAR made under oath and APF, together with the other required documents, to the concerned RDO/LTD/LTCED for endorsement of the APF and pay the tax amnesty amount with the AABs or RCOs, whichever is applicable, by presenting the RDO/LTD/LTCED-endorsed or approved APF**:

Provided, that if no payment is required as in the case when assessment consists only of unpaid penalties due to either late filing or payment, the phrase "no payment required" shall be indicated in the APF.

Step 3. **Submit/file immediately to the RDO/LTD/LTCED where the taxpayer is registered, in triplicate copies, the duly accomplished TAR, made under oath, together with the complete documentary requirements and proof of payment, which in no case shall be beyond the one (1) year availment period.** The taxpayer/applicant shall be furnished with a copy, stamped as received, of said TAR and APF.

Availment of Tax Amnesty on Delinquencies shall be considered fully complied with upon completion of the above enumerated steps within the one (1) year availment period."[5]

Once the aforementioned procedure has been complied with, the BIR will issue the NIATCA within fifteen (15) calendar days from the submission of the APF and TAR. Otherwise, the stamped-received duplicate copies of the APF and TAR will be deemed as sufficient proof of availment.[6]

Upon full compliance with all the conditions set forth in the Tax Amnesty Act, as well as, those enumerated in RR No. 04-19 the taxpayer's alleged tax liability is considered settled, and the criminal case in connection with said tax liability is deemed terminated, as provided under ***Section 20 of the Tax Amnesty Act***, to wit:

"Section 20. Immunities and Privileges. - **The tax delinquency of those who avail of the Tax Amnesty on Delinquencies and have fully**

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5 Section 5(c) of Revenue Regulation No. 04-19, 5 April 2019.

6 Section 6 of Revenue Regulation No. 04-19, 5 April 2019.

> **complied with all the conditions set forth in this Act and upon payment of the amnesty tax shall be considered settled and the criminal case under Section 18(c) and its corresponding civil or administrative case, if applicable, be terminated, and the taxpayer shall be immune from all suits or actions, including the payment of said delinquency or assessment, as well as additions thereto, and from all appurtenant civil, criminal, and administrative cases, and penalties under the National Internal Revenue Code of 1997,** as amended, as such relate to the taxpayer's assets, liabilities, networth, and internal revenue taxes that are subject of the tax amnesty, and from such other investigations or suits insofar as they relate to the assets, liabilities, networth and internal revenue taxes that are subject of the tax amnesty: Provided, That any notices of levy, attachments and/or warrants of garnishment issued against the taxpayer shall be set aside pursuant to a lifting of notice of levy/garnishment duly issued by the Bureau of Internal Revenue or its authorized representative: Provided, further, That the Authority to Cancel Assessment shall be issued by the Bureau of Internal Revenue in favor of the taxpayer availing of the Tax Amnesty on Delinquencies within fifteen (15) calendar days from submission to the Bureau of Internal Revenue of the Acceptance Payment Form and the Tax Amnesty on Delinquencies Return. Otherwise, the duplicate copies, stamped as received, of the Acceptance Payment Form, and the Tax Amnesty on Delinquencies Return shall be deemed as sufficient proof of availment: Provided, furthermore, That the Tax Amnesty on Delinquencies Return and the Acceptance Payment Form shall be submitted to the Revenue District Office after complete payment. The completion of these requirements shall be deemed full compliance with the provisions of this Act.
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> Upon full compliance with all the conditions set forth in this Title and payment of the corresponding tax on delinquency, the tax amnesty granted under this Title shall become final and irrevocable."[7]

Applying the foregoing provisions in the case at bar, the Court finds the accused to have sufficiently proven his entitlement and availment of the Tax Amnesty on Delinquencies.

A perusal of the case records shows that the accused is charged with violation of Section 255 of the Tax Code for his alleged failure to supply correct and accurate information in his VAT return for the first quarter of 2010.[8] The pertinent portions of the Information is hereby quoted, to wit:

> "INFORMATION
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> The undersigned Prosecution Attorney of the Department of Justice, hereby accuses **ABRAHAM P. CUARESMA** of the offense **"Failure to supply Correct and Accurate Information" under Section 255 of the National Internal Revenue Code (NIRC) of 1997,** as amended, committed as follows:
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> > "That sometime in April 2010 or **on the filing of the first quarterly Value Added Tax (VAT) Return and the corresponding payment of VAT for the first quarter of taxable year 2010**, in Quezon City and within the

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7 Emphasis supplied.

8 See Information, Records, pp. 5-6.

> jurisdiction of this Honorable Court, above-named accused Abraham P. Cuaresma, as registered taxpayer and sole proprietor of Compuserve Land Surveying and Development, did then and there, willfully, unlawfully and feloniously fail to supply correct and accurate information in his VAT return for the first quarter of 2010 by: **failing to declare that his gross receipts from the DENR income payments amounted to Ten Million Sixty-Eight Thousand One Hundred Eight-Eight Pesos and Sixty Centavos (P10,068,188.60), which resulted in VAT deficiency in the amount of One Million Two Hundred Eight Thousand One Hundred Eighty-Two Pesos and Sixty-Three Centavos (P1,208,182.63), exclusive of surcharges and interests, to the damage and prejudice of the government.**"[9]

The foregoing facts sufficiently prove the entitlement of the accused to avail of the Tax Amnesty on Delinquencies. *First*, the subject tax in this case is Value-Added Tax, which is one of the taxes covered by the Tax Amnesty on Delinquencies.[10] *Second*, the charge against him is for violation of Section 255 of the Tax Code, for his alleged failure to supply correct and accurate information in his VAT returns for the first quarter of 2010,[11] which is a crime that falls under Chapter II of Title X of the Tax Code.[12]

As for the accused's proof of payment of the Tax Amnesty on Delinquencies, he submitted the original copies of the following documents:

(a) Payment Slip from the AAB dated 22 November 2019 in the amount of Php 724,909.58;
(b) TAR with stamped received by the BIR on 27 November 2019, in the amount of Php 724,905.58.
(c) APF with stamped received by the BIR on 27 November 2019, and endorsed by the RDO, Ms. Leticia C. Arabit, in the amount of Php 724,905.58.
(d) Certificate of Tax Delinquencies dated 25 October 2019.

To recapitulate, the accused paid the Tax Amnesty on 22 November 2019 amounting to Php 724,905.58, which is equivalent to sixty percent (60%) of his alleged basic tax liability amounting to Php 1,208,182.63. Thereafter, he was able to file the TAR, APF together with his proof of payment with the BIR on 27 November 2019 which is within the one (1) year availment period.[13] Considering that the 15-day period has passed from the time accused

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9 Emphases supplied.

10 TITLE IV TAX AMNESTY ON DELINQUENCIES
Section 17. Coverage. - There is hereby authorized and granted a tax amnesty herein called the Tax Amnesty on Delinquencies, which shall cover all national internal revenue taxes such as, but not limited to, income tax, withholding tax, capital gains tax, donor's tax, value-added tax, other percentage taxes, excise tax and documentary stamp tax collected by the Bureau of Internal Revenue, including value-added tax and excise taxes collected by the Bureau of Customs for taxable year 2017 and prior years.

11 See Information, Records, pp. 5-6.

12 Section 18, Title IV of Republic Act No. 11213.

13 Section 19. Availment of the Tax Amnesty on Delinquencies; When and Where to File and Pay. - Any person, natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall,

submitted the APF, TAR, and proof of payment of the Tax Amnesty to the BIR, the Court considers the stamped-received APF and TAR as sufficient proof of accused's availment of the Tax Amnesty on Delinquencies.

Based on the foregoing, and the Confirmation given by the plaintiff, the accused has sufficiently proven its availment of the Tax Amnesty on Delinquencies which the Court finds to be in compliance with the guidelines and procedures laid down in the Tax Amnesty Act and RR No. 04-19.

WHEREFORE, premises considered, the Manifestation with Motion for Dismissal of the Case is hereby **GRANTED**, in light of the accused's availment of the Tax Amnesty on Delinquencies and cancellation of the deficiency tax assessments subject of the instant case. Accordingly, the instant case is **DISMISSED**, and is considered **CLOSED AND TERMINATED.**

SO ORDERED.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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within one (1) year from the effectivity of the Implementing Rules and Regulations of this Act. RR 04-19 became effective on 24 April 2019.