REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

HIGHLANDS PRIME, INC. *Petitioner,*	**CTA CASE NO. 9393**
	Members:
-*versus*-	**UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
THE COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 24 2022 11:28 a.m.

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JUDGMENT ON COMPROMISE AGREEMENT

MODESTO-SAN PEDRO, J.:

For the Court's resolution is the parties' ***Joint Motion for Approval of Compromise Agreement (hereinafter referred to as "Joint Motion")***, filed on 15 February 2021.[1]

On 27 July 2016, petitioner filed a Petition for Review[2] asking this Court to set aside the Final Decision on Disputed Assessment ("FDDA") issued by respondent.[3] In the said issuance, petitioner was found liable for deficiency taxes in the aggregate amount of ₱133,243,352.80 for taxable year 2009.[4] The assessment is broken down, as follows:

[1] Division Records Vol. 3, pp. 1450-1463.
[2] Division Records Vol. 1, pp. 10-339.
[3] Exhibit "P-58", Division Records Vol. 3, pp. 1149-1161.
[4] *Id.*

Tax Type	Basic	Interest	Surcharge	Compromise Penalty	Total[5]
Income Tax	₱ 44,934,609.71	₱ 55,842,024.55	₱ -	₱ 50,000.00	₱100,826,634.26
Value-Added Tax ("VAT")	5,545,834.03	7,135,133.32	-	50,000.00	12,730,967.35
Withholding Tax on Compensation ("WTC")	63,732.25	82,345.55	-	12,000.00	158,077.80
Expanded Withholding Tax ("EWT")	4,625,447.43	5,976,331.53	-	25,000.00	10,626,778.96
Fringe Benefit Tax ("FBT")	3,485,404.82	4,503,334.01	871,351.21	25,000.00	8,885,090.04
Documentary Stamp Tax ("DST")	5,615.00	7,285.65	1,403.75	1,500.00	15,804.40
TOTAL DEFICIENCY TAXES	**₱ 58,660,643.24**	**₱ 73,546,454.61**	**₱ 872,754.96**	**₱ 163,500.00**	**₱133,243,352.81**

On various dates, the parties filed several Joint Manifestations and Motions informing the Court of their intention to enter into a Judicial Compromise Agreement ("JCA") and, thus, requested for the suspension of the proceedings.[6] The Court granted the parties' requests.[7]

On 19 December 2019, the Court issued a Resolution ordering the parties to update it on their plan to enter into a JCA.[8] In turn, the parties requested for several extensions to file their report, explaining that the Offer of Compromise was still being reviewed by the Office of the respondent.[9] These Motions were granted by the Court.[10]

Despite the extensions given, the parties failed to enter into a JCA within the extended period granted by the Court. This forced the same to issue a Resolution on 12 January 2021, submitting the case for decision.[11]

Subsequently, the parties filed the instant Joint Motion on 15 February 2021.[12]

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[5] Difference in total is due to rounding-off.

[6] Joint Manifestation and Motion, Division Records Vol. 3, pp. 1325-1327; Second Joint Manifestation and Motion, *id.*, pp. 1404-1406; Joint Motion for Suspension; *id.*, pp. 1409-1411.

[7] Resolution dated 6 May 2019, *id.*, p. 1344; Resolution dated 19 June 2019; *id.*, p. 1408; Resolution dated 22 August 2019, *id.*, p. 1413.

[8] *Id.*, pp. 1421-1422.

[9] Omnibus Motion, *id.*, pp. 1423-1427; Motion for Extension of Time (Re: Result of the Judicial Compromise), *id.*, pp. 1430-1433; Compliance with Motion for Extension of Additional Time to Submit Report on the Result of the Judicial Compromise, *id.*, pp. 1436-1439.

[10] Resolution dated 20 January 2020, *id.*, p. 1429; Resolution dated 14 February 2020, *id.*, p. 1435; Resolution dated 13 March 2020, *id.*, p. 1441.

[11] Resolution dated 12 January 2021, *id.*, p. 1448.

[12] *Id.*, pp. 1450-1463.

In the said submission, the parties manifest that petitioner, in support of its offer to compromise its tax liabilities, paid its total deficiency WTC, FBT, and DST, inclusive of interest and penalty on 19 July 2016.[13] To prove such payment, petitioner presented the pertinent Payment Forms ("BIR Form No. 0605") and eFPS Payment Details bearing the following information:

Tax Type	eFPS Ref. No.	Total Payment[14]
WTC	291600016158274[15]	₱ 161,836.32
FBT	291600016158393[16]	8,927,105.88
DST	291600016158683[17]	17,372.09
TOTAL		**₱ 9,106,314.29**

Thereafter, they entered into a JCA on 17 September 2020 in settlement of petitioner's deficiency taxes, and petitioner paid the additional judicial compromise amount of ₱13,016,515.76.[18]

As proof of the said agreement and payment of the judicial compromise amount, the parties submitted the relevant Payment Forms[19] and the original copy of the JCA.[20] The relevant portions of the JCA are hereby quoted, to wit:

> "**WHEREAS,** the **TAXPAYER** has submitted to the BIR a **Proposal for Amicable Settlement** dated 14 June 2019 for the alleged deficiency tax assessment contained in the **FLD** and **FDDA**;
>
> **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 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;
>
> xxx xxx xxx
>
> **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;

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[13] *Ibid.*
[14] Difference in amount due to the increase in interest.
[15] Exhibits "P-64" to "P-64-A", Division Records Vol. 3, pp. 1188-1189.
[16] Exhibits "P-65" to "P-65-A", *id.*, pp. 1190-1191.
[17] Exhibits "P-66" to "P-66-A", *id.*, pp. 1192-1193.
[18] Joint Motion, *id.*, pp. 1450-1463.
[19] Payment Forms, *id.*, pp. 1455-1457.
[20] Judicial Compromise Agreement, *id.*, pp. 1458-1463.

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 **P13,016,515.75 (Thirteen million sixteen thousand five hundred fifteen and 75/100 pesos) ("Judicial Compromise Amount"),** or 40% of the remaining basic tax assessed per Honorable CTA's Decision.

xxx xxx xxx

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 **FLD** dated 23 March 2015 and **FDDA** dated 29 June 2016.

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** warrants that, Ms. Cecilia R. Patricio, 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. 9393. 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. 9393 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. 9393."

On 9 June 2021, the Court issued a Resolution deferring the resolution of the Joint Motion and ordering the parties to submit, within fifteen (15) days from notice, the complete proof of payment of the judicial compromise amount; a Board Resolution or Secretary's Certificate authorizing petitioner's signatory, Ms. Cecilia R. Patricio, to represent the Company in entering the JCA; and the proof of approval of the JCA by the majority of the members of the National Evaluation Board ("NEB").[21]

[21] *Id.*, pp. 1465-1467.

On 1 July 2021, respondent filed his Motion for Extension of Time (Re: Submit Required Documents).[22] He informed the Court that the proof of approval of the JCA by the NEB was still being processed. The Court granted the Motion on 14 July 2021.[23]

Meanwhile, on 2 July 2021, petitioner filed its Compliance[24] and submitted the following documents:

1. Secretary's Certificate stating that Ms. Cecilia R. Patricio was designated by the petitioner's Board of Directors as authorized signatory to execute the JCA with the BIR;[25] and

2. The respective proofs of payment of the judicial compromise amount,[26] the details of which are as follows:

Tax Type	eFPS Ref. No.	Total Payment
Income Tax	292000036551389[27]	₱ 6,172,734.72
VAT	292000036552652[28]	2,218,333.61
EWT	292000036552753[29]	4,625,447.43
TOTAL		**₱ 13,016,515.76**

On 20 October 2021, the Court issued a Resolution finding petitioner's Compliance in order.[30]

On 27 October 2021, respondent posted another Motion for Extension of Time (Re: Submit Required Documents) asking for an additional period of 30 days to submit the proof of approval of the NEB. He reasoned that the same is still being routed to the members of the NEB.[31] The Court granted respondent's Motion on 24 November 2021.[32]

Thereafter, respondent filed his Compliance on 1 December 2021, submitting to Court the certified true copy of the Certificate of Availment and the Approval Sheet of the JCA indicating the signature of the majority of the members of the NEB.[33]

The Court takes **NOTE** of respondent's Compliance.

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[22] *Id.*, pp. 1468-1472.
[23] Resolution dated 14 July 2021; *id.*, p. 1485.
[24] *Id.*, pp. 1473-1483.
[25] *Id.*, p. 1477.
[26] *Id.*, pp. 1478-1483.
[27] *Id.*, pp. 1455, 1478, and 1481.
[28] *Id.*, pp. 1456, 1479, and 1482.
[29] *Id.*, pp. 1457, 1480, and 1483.
[30] *Id.*, pp. 1487-1488.
[31] *Id.*, pp. 1489-1493.
[32] Resolution dated 24 November 2021; *id.*, p. 1494.
[33] *Id.*, pp. 1495-1500.

Considering the foregoing developments, and having found the submissions of the parties to be in accordance with ***En Banc Resolution No. 7-2021***,[34] the Court now resolves the Joint Motion.

Section 204(A) of the Tax Code provides for the authority of the Commissioner of Internal Revenue ("CIR") to compromise the payment of any revenue tax, 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) **<u>A reasonable doubt as to the validity of the claim against the taxpayer exists</u>**; 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 (₱1,000.000) 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**. xxx"
> (Emphasis and underscoring supplied)

Based on the foregoing, a compromise settlement is deemed valid provided that the following requirements are met:

1. That the application for compromise should be 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

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[34] 22 June 2021.

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 (₱1,000,000.00)** or **where the settlement offered is less than the prescribed minimum rates**.

In this case, per the Certificate of Availment submitted by the parties, the JCA entered into is based on **doubtful validity of respondent's assessment**.

In order to determine whether the assessment's validity is indeed doubtful, the Court refers to ***Section 3 of Revenue Regulations ("RR") No. 30-2002, as amended***,[35] which enumerates the instances on when the assessment's propriety is considered doubtful, to wit:

> "SECTION 3. Basis For Acceptance of Compromise Settlement. — The Commissioner may compromise the payment of any internal revenue tax on the following grounds:
>
> 1. Doubtful validity of the assessment. — The offer to compromise a delinquent account or disputed assessment under these Regulations on the ground of reasonable doubt as to the validity of the assessment may be accepted when it is shown that:
>
> (a) The delinquent account or disputed assessment is one resulting from a jeopardy assessment (For this purpose, "jeopardy assessment" shall refer to a tax assessment which was assessed without the benefit of complete or partial audit by an authorized revenue officer, who has reason to believe that the assessment and collection of a deficiency tax will be jeopardized by delay because of the taxpayer's failure to comply with the audit and investigation requirements to present his books of accounts and/or pertinent records, or to substantiate all or any of the deductions, exemptions, or credits claimed in his return); or
>
> (b) The assessment seems to be arbitrary in nature, appearing to be based on presumptions and there is reason to believe that it is looking in legal and/or factual basis; or
>
> (c) The taxpayer failed 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; or
>
> (d) The taxpayer failed to file a request for reinvestigation/reconsideration within 30 days from receipt of final assessment notice and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

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[35] 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, 16 December 2002; Revenue Regulations No. 08-04, 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. 7-2001 and 30-2002, 19 May 2004.

(e) The taxpayer failed to elevate to the Court of Tax Appeals (CTA) an adverse decision of the Commissioner, or his authorized representative, in some cases, within 30 days from receipt thereof and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(f) The assessments were issued on or after January 1, 1998, where the demand notice allegedly failed to comply with the formalities prescribed under Sec. 228 of the National Internal Revenue Code of 1997; or

(g) Assessments made based on the "Best Evidence Obtainable Rule" and there is reason to believe that the same can be disputed by sufficient and competent evidence; or

<u>(h) The assessment was issued within the prescriptive period for assessment as extended by the taxpayer's execution of Waiver of the Statute of Limitations the validity or authenticity of which is being questioned or at issue and there is strong reason to believe and evidence to prove that it is not authentic</u>; or

(i) The assessment is based on an issue where a court of competent jurisdiction made an adverse decision against the Bureau, but for which the Supreme Court has not decided upon with finality."
(Emphasis and underscoring supplied)

Clearly, the scenario under ***Section 3.h of RR No. 30-2002, as amended*** is present in this case. Based on petitioner's Petition for Review,[36] one of the grounds it advanced to prove the invalidity of the assessment is the issue of prescription on the ground of an invalid/defective waiver. Hence, the first requisite is satisfied in this case.

As for the second and third requisites, the judicial compromise amount paid by petitioner totaling to ₱22,122,830.05 appears to be below the 40% minimum payment required under ***Section 204(A) of the Tax Code*** computed as follows:

Tax Type	Basic Tax	40% of the Basic Tax
Income Tax	₱ 44,934,609.71	₱ 17,973,843.88
VAT	5,545,834.03	2,218,333.61
WTC	63,732.25	25,492.90
EWT	4,625,447.43	1,850,178.97
FBT	3,485,404.82	1,394,161.93
DST	5,615.00	2,246.00
TOTAL	**₱ 58,660,643.24**	**₱ 23,464,257.29**

At any rate, the parties have submitted the certified true copy of the Certificate of Availment, dated 8 November 2021,[37] and the Approval Sheet of the JCA which shows the signature of the majority of the members of the NEB

[36] Petition for Review, Division Records Vol. 1, pp. 16-44.
[37] Division Records Vol. 3, p. 1499.

approving the judicial compromise amount,[38] albeit below the 40% minimum rate required by the Tax Code.

Having found the documents in order, the Court finds the Approval Sheet of the NEB and the Certificate of Availment sufficient evidence of the parties' compliance with the second and third requisites, respectively, and the mandate of ***Section 6 of RR No. 30-2002, as amended***, to wit:

> "SECTION 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 <u>majority of all the members of the NEB</u> 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 consequence of the Commissioner.
>
> xxx xxx xxx
>
> Provided, however, **<u>that if the offer of compromise is less than the prescribed rates set forth in Sec. 4 hereof, the same shall always be subject to the approval of the NEB</u>**. xxx"
> (Emphasis and underscoring supplied)

On this point, considering the faithful observance by the parties of all the requisites under ***Section 204(A) of the Tax Code***, 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***,[39] 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. **<u>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.</u> <u>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.</u> <u>Thus, a compromise agreement that has been made and duly approved by the court attains the effect and authority of *res judicata*,</u>** 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."

[38] *Id.*, p. 1500.
[39] G.R. No. 171698, 4 July 2007.

(Emphasis and underscoring supplied)

WHEREFORE, premises considered, the parties' **Joint Motion for Approval of Compromise Agreement** is **GRANTED**. The submission of the Certificate of Availment (Compromise Settlement) with attached Approval Sheet of the Judicial Compromise Agreement by the National Evaluation Board is **DEEMED SUFFICIENT COMPLIANCE** with the Resolution, dated 9 June 2021.

The **Judicial Compromise Agreement**, dated 17 September 2020, entered into by the parties is hereby **APPROVED**. This **Judgment on Compromise Agreement** is hereby rendered in accordance therewith. The parties are hereby 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.

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