REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM. CASE NOS. O-692 & O-693** For: Violation of Section 254 NIRC of 1997, as amended, and Violation of Section 255 of the NIRC of 1997, as amended.
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **BACORRO-VILLENA**, and **CUI-DAVID,** *JJ.*
ANTONIO LEE TIU, Accused.	Promulgated: MAR 02 2022 9:0N a.m.

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RESOLUTION

For resolution are the following:

1. accused's **Manifestation – with Motion to Dismiss**, filed on February 15, 2021, with prosecution's **Compliance and Comment (on Accused Manifestation with Motion to Dismiss dated January 25, 2021)**, filed by registered mail on June 30, 2021 and received by the Court on July 1, 2021; and

2. accused's **Submission**, filed on December 20, 2021.

In the instant motion, accused alleges, among others (1) that he decided to apply for a tax amnesty under Republic Act (RA) No.

11213, otherwise known as the Tax Amnesty Act; (2) that he paid the income tax and value-added tax for taxable years 2008 and 2013; and (3) that he filed a Manifestation with Motion to Dismiss dated January 25, 2021 with the Department of Justice (DOJ) for the termination of the preliminary investigation and for the cancellation of the Informations filed against him. Thus, he prays for the dismissal of the criminal cases filed against him.

In the Resolution dated May 24, 2021, the Court gave the accused a period of ten (10) days from notice within which to submit the original or certified true copy of the documents attached to his *Manifestation – with Motion to Dismiss.* Likewise, the Court gave the prosecution the same period within which to furnish the Court a copy of the *DOJ Resolution on the Manifestation – with Motion to Dismiss.*

Thus, on May 31, 2021, prosecution filed its *Compliance* to the May 24, 2021 Resolution, with the attached certified true copy of the DOJ Resolution (On the Manifestation with Motion for Reconsideration) dated March 5, 2021.

On June 17, 2021, the Court gave accused a period of ten (10) days from notice within which to submit the original or certified true copy of the documents attached to his Manifestation – with Motion to Dismiss, and the prosecution the same period within which to submit to the Court a copy of the Department of Justice (DOJ) Resolution on the Manifestation – with Motion to Dismiss filed on February 15, 2021.

In his **Compliance/Submission** filed on June 18, 2021, accused attached the following certified machine or true copies from the original that he was able to obtain:

1. Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA) for the payment of Value Added Tax for the year 2008 in the discounted amount of ₱6,621,201.68;

2. Acceptance Payment Form (BIR Form No. 0621-DA) for the payment of Value Added Tax for the year 2008 in the discounted amount of ₱6,621,201.68;

3. Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA) for the payment of Income Tax for the year 2008 in the discounted amount of ₱721,089.56;

4. Acceptance Payment Form (BIR Form No. 0621-DA) for the payment of Income Tax for the year 2008 in the discounted amount of ₱721,089.56;

5. Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA) for the payment of Value Added Tax for the year 2013 in the discounted amount of ₱928,459.61;

6. Acceptance Payment Form (BIR Form No. 0621-DA) for the payment of Value Added Tax for the year 2008 in the discounted amount of ₱928,459.61;

7. Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA) for the payment of Income Tax for the year 2013 in the discounted amount of ₱274,117.03;

8. Acceptance Payment Form (BIR Form No. 0621-DA) for the payment of Income Tax for the year 2013 in the discounted amount of ₱274,117.03; and

9. Certificate of Tax Delinquencies/Tax Liabilities dated November 17, 2020.

Thereafter, on July 27, 2021, the Court, among others, noted the submission of accused's Compliance/Submission, filed on June 18, 2021 and prosecution's Compliance and Comment (on Accused Manifestation with Motion to Dismiss dated January 25, 2021), filed on July 1, 2021; and admitted the certified machine or true copies of the documents attached to the accused's Compliance/Submission and the DOJ Resolution (on the Manifestation with Motion for Reconsideration) dated March 5, 2021.

Subsequently, on September 28, 2021, accused filed his Supplemental Manifestation with Submission and submitted the certified true copy of the Final Decision on Disputed Assessment dated October 28, 2020.

In the Resolution dated October 29, 2021, the Court, among others, admitted the certified true copy of the Final Decision on Disputed Assessment dated October 2020, granted accused Motion for Comparison, and set the case for a Commissioner's Hearing for the presentation and comparison of the United Coconut Planters Bank BTR-BIR Deposit Slips with their originals.

During the Commissioner's Hearing held on December 13, 2021, the following exhibits were found to be Faithful Reproductions of the Originals, to wit:

Annex	*Description*
A-7	UCPB BTR-BIR Deposit Slip dated 12/14/2020 in the amount of ₱6,621,201.68
A-8	UCPB BTR-BIR Deposit Slip dated 12/14/2020 in the amount of ₱721,089.56
A-9	UCPB BTR-BIR Deposit Slip dated 12/14/2020 in the amount of ₱928,459.61
A-10	UCPB BTR-BIR Deposit Slip dated 12/14/2020 in the amount of ₱274,117.03

On December 20, 2021, the accused filed his **Submission**, wherein he attached the marked copies of Exhibits "A-7", "A-8", "A-9" and "A-10".

On the other hand, the prosecution, in its comment, argues that the availment of the benefits of tax amnesty under RA No. 11213 pursuant to Revenue Regulations No. 4-2019, in relation to Revenue Memorandum Order No. 23-2019 implementing the Tax Amnesty Act, is subject to strict documentary requirements stated therein which must be completely complied with by the accused.

To ascertain whether the tax involved in this case is covered by the said Tax Amnesty law, the Court finds instructive Section 17, Title IV of RA No. 11213, which states:

> "SEC. 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.
>
> **For purposes of this Act, the Tax Amnesty on Delinquencies may be availed of in the following instances:**

xxx xxx xxx

(b) **Pending criminal cases 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** or without **assessments duly issued;**

xxx xxx xxx." *(Emphases and underscoring supplied)*

The instant consolidated criminal cases involve income tax and value-added tax, thus, are covered by Tax Amnesty on Delinquencies pursuant to Section 17 of RA No. 11213.

As to the entitlement and Availment of the benefits provided under RA No. 11213, Section 18, 19 and 20 thereof, provides as follows:

"SEC. 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:

xxx xxx xxx

(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**

xxx xxx xxx

SEC. 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.

SEC. 20. *Immunities and Privileges.* - **The tax delinquency of those who avail of the Tax Amnesty on Delinquencies and have fully 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. <u>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</u>:** *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.**
>
> **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.**" *(Emphases and underscoring supplied)*

Based on the above provisions, the Tax Amnesty on Delinquencies covers all national internal revenue taxes, such as **income tax**, withholding tax, **VAT**, and DST. The same may be availed of: (1) by filing with the appropriate office of the BIR a sworn *Tax Amnesty on Delinquencies Return* accompanied by a *Certification of Delinquency*, within a period of one (1) year from the effectivity of the Implementing Rules and Regulations of RA No. 11213; and (2) by paying, *inter alia, 60%* of the basic tax assessed, for those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the NIRC of 1997, as amended.

Relative thereto, Sections 5 and 8 of Revenue Regulations (RR) No. 4-2019 provide:

> "**SECTION 5. MANNER OF AVAILMENT OF TAX AMNESTY ON TAX DELINQUENCIES.** Any person, whether natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall file, within one (1) year from the effectivity of these Regulations, an

application therefor in accordance with the procedures set forth below.

A. **DOCUMENTARY REQUIREMENTS:** The taxpayer shall submit the following:

1. Tax Amnesty Return (TAR) (BIR Form No. 2118-DA, Annex "A"), completely and accurately accomplished and made under oath;

2. Acceptance Payment Form (APF) (BIR Form No. 0621-DA, Annex "B") duly validated by the Authorized Agent Banks (AABs) or APF duly stamped "received" with accompanying bank deposit slip duly validated by the concerned AABs or Revenue Official Receipt (ROR) issued by the Revenue Collection Officers (RCOs);

3. Certificate of Tax Delinquencies/Tax Liabilities issued by concerned BIR offices (Annex "c"); and

4. In case of applications under Section 3(A)(2) of these Regulations, a copy of the assessment found in the FAN/FDDA: *Provided that,* in cases of applications under Section 3(D), either delinquent account or not, with or without FAN/FDDA, the Preliminary Assessment Notice (PAN)/Notice for Informal Conference or equivalent document is sufficient.

B. **PLACE OF FILING** - The Tax Amnesty Return and other documentary requirements shall be filed with the following BIR offices:

Classification	**Place of Filing**
Non-Large Taxpayer	Revenue District Office (RDO) where applicant-taxpayer is registered
Large Taxpayers – Cebu or Davao	Large Taxpayers Division (LTD) Office where applicant-taxpayer is registered
Large Taxpayers – Excise and Regular	Large Taxpayers Collection Enforcement Division (LTCED)

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

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

Nature of Tax Liabilities	Large Taxpayer	Non-Large Taxpayer
xxx Tax liabilities covered by a pending criminal cases filed with the DOJ/Prosecutor's Office/Courts	xxx Prosecution Division of the National Office	xxx a. Legal Division – For taxpayer-applicants under the jurisdiction of Revenue Regions (RR) Nos. 5, 6, 7 and 8 (Caloocan, Manila, Quezon City and Makati, respectively); b. Legal Division of the Regional Office or Prosecution Division in the National Office which handled the case – For taxpayer-applicants under tire jurisdiction of Revenue Regions other than the RRs mentioned under (a) hereof

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.

SECTION 8. IMMUNITIES AND PRIVILEGES OF AVAILING TAX AMNESTY ON TAX DELINQUENCIES. The tax delinquency of those who avail of the Tax Amnesty on Delinquencies under these Regulations, upon full compliance with all the conditions set forth hereof, shall be considered settled, and the criminal case in connection therewith and its corresponding civil or administrative case, if applicable, shall be terminated. 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 1997 Tax Code, as amended, as such relate to the internal revenue taxes for taxable years that are subject of the tax amnesty availed of.

The availment of the Tax Amnesty on Delinquencies herein provided and the issuance of the corresponding APF do not imply any admission of criminal, civil or administrative liability on the part of the availing taxpayer."

Moreover, under Revenue Memorandum Circular No. 135-2019,[1] the BIR stated, *inter alia*, the procedures to be strictly complied with by any person who would avail of the subject tax amnesty, *viz.*:

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[1] SUBJECT: Reiteration of the Prescribed Procedures in the Availment of the Tax Amnesty on Delinquencies (TAD) and Additional Clarification on Issues Raised Relative thereto.

"Public hearings were conducted before the implementing rules and regulations were approved by the Secretary of Finance and therefore, it should be enforced accordingly for the efficient and orderly implementation of the tax amnesty program. In this regard, **the following procedures as prescribed under Revenue Memorandum Order (RMO) No. 23-2019 must be strictly complied by all concerned:**

> a. **Tax Amnesty Return (TAR) (BIR Form No. 2118-DA), completely and accurately accomplished and made under oath.**
>
> b. **Acceptance Payment Form (APF) or BIR Form 0621-DA must be <u>duly endorsed by the concerned BIR Officials</u>.**
>
> c. **Certificate of Tax Delinquencies (CTD) must be <u>issued and signed only by the authorized BIR officer</u> and not by the taxpayer who is availing of the tax amnesty."** *(Emphasis added)*

It is clear from the foregoing that once an accused has fully complied with all the conditions set forth in the above provision of law, and upon payment of the amnesty tax, the tax delinquency shall be considered settled and the criminal case under Section 18 (C) and its corresponding civil or administrative case, shall be terminated.

Accordingly, to prove his Availment of the said Tax Amnesty and payment of the corresponding tax thereon, accused submitted the certified machine, true copies or faithful reproductions of the original of the following documents, to wit:

1. Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA) for the payment of Value Added Tax for the year 2008 in the discounted amount of ₱6,621,201.68 with stamp received by the BIR on December 16, 2020;

2. Acceptance Payment Form (BIR Form No. 0621-DA) for the payment of Value Added Tax for the year 2008

in the discounted amount of ₱6,621,201.68, endorsed by Revenue District Officer Vicente P. Gamad, Jr., and with stamp received by the BIR on December 14, 2020;

3. Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA) for the payment of Income Tax for the year 2008 in the discounted amount of ₱721,089.56 with stamp received by the BIR on December 16, 2020;

4. Acceptance Payment Form (BIR Form No. 0621-DA) for the payment of Income Tax for the year 2008 in the discounted amount of ₱721,089.56, endorsed by Revenue District Officer Vicente P. Gamad, Jr., and with stamp received by the BIR on December 14, 2020;

5. Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA) for the payment of Value Added Tax for the year 2013 in the discounted amount of ₱928,459.61 with stamp received by the BIR on December 16, 2020;

6. Acceptance Payment Form (BIR Form No. 0621-DA) for the payment of Value Added Tax for the year 2008 in the discounted amount of ₱928,459.61, endorsed by Revenue District Officer Vicente P. Gamad, Jr., and with stamp received by the BIR on December 14, 2020;

7. Tax Amnesty Return on Delinquencies (BIR Form No. 2118-DA) for the payment of Income Tax for the year 2013 in the discounted amount of ₱274,117.03 with stamp received by the BIR on December 16, 2020;

8. Acceptance Payment Form (BIR Form No. 0621-DA) for the payment of Income Tax for the year 2013 in the discounted amount of ₱274,117.03, endorsed by Revenue District Officer Vicente P. Gamad, Jr., and with stamp received by the BIR on December 16, 2020;

9. Certificate of Tax Delinquencies/Tax Liabilities dated November 17, 2020 signed by Mr. Zeus Gamaliel S. Mendoza, OIC-Chief, Prosecution Division of the Bureau of Internal Revenue; and

10. UCPB BTR-BIR Deposit Slip dated December 14, 2020 in the amount of ₱6,621,201.68; UCPB BTR-BIR Deposit Slip dated December 14, 2020 in the amount of ₱721,089.56; UCPB BTR-BIR Deposit Slip dated December 14, 2020 in the amount of ₱928,459.61 and UCPB BTR-BIR Deposit Slip dated December 14, 2020 in the amount of ₱274,117.03.

A perusal of the above documents shows that accused complied with all the required documents mandated by the provisions under Tax Amnesty on Delinquencies of RA No. 11213 and its implementing rules and regulations.

Also, the documents presented by the accused further show that he availed of the Tax Amnesty on Delinquencies under RA No. 11213 within one (1) year from the effectivity of the Implementing Rules and Regulations thereof.

In this regard, it must be noted that the Implementing Rules and Regulations of RA No. 11213, which is Revenue Regulations (RR) No. 4-2019, initially took effect on April 24, 2019[2]. Thus, accused is required to submit to the RDO No. 43 - Pasig City[3], where he is registered, a Tax Amnesty on Delinquencies Return, accompanied by a Certificate of Delinquency, and pay the amnesty tax upon the filing of the said Return, within one (1) year, counting from April 24, 2019.[4] However, the availment period provided under Section 3 of RR No. 4-2019, was extend until April 23, 2020, pursuant to RR No. 5-2020 dated March 16, 2020. Subsequently, the said period was further extended until December 31, 2020, by virtue of RR No. 15-2020 dated June 19, 2020. Thereafter, the same period was last extended until **June 30, 2021**, under RR No. 32-2020 dated December 17, 2020.

Clearly, the payment of the corresponding amnesty tax by the accused, and submission/filing of the duly accomplished Tax Amnesty Return (notarized), Acceptance of Payment Form and proof of payment, made on December 14, 2020 and December 16, 2020,

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[2] RA No. 11213 took effect on April 24, 2019, after fifteen (15) days from the publication thereof in the Malaya Business Insight on April 9, 2019.

[3] Per Department of Justice Resolution dated March 8, 2017, accused was initially a registered taxpayer of Revenue District Office (RDO) No. 30-Binondo, but thereafter transferred to RDO No. 43A-East Pasig, which RDO were later on consolidated with RDO No. 43-B-West Pasig as one (1) RDO and renamed as RDO No. 43 - Pasig City, pursuant to Revenue Administrative Order No. 2-2016 dated June 23, 2016.

[4] Section 19, RA No. 11213.

respectively, are well within the extended period provided under RR No. 32-2020.

It must likewise be noted that based on the proof of payment presented and the prosecution's manifestation in its compliance and comment[5], accused paid 60% of the basic tax assessed as indicated in the Certificate of Tax Delinquencies/Tax Liabilities dated November 17, 2020 signed by Mr. Zeus Gamaliel S. Mendoza, OIC-Chief, Prosecution Division of the Bureau of Internal Revenue.

Considering that accused is qualified to avail of the said tax amnesty under RA No. 11213, and has satisfied the conditions set forth there under, as well as the payment of the pertinent amnesty taxes, his tax delinquencies or delinquent accounts for taxable years 2008 and 2013 are considered settled, pursuant to Section 20 of the said law. Furthermore, accused is already immune from all suits or actions, including the payment of the said subject tax assessments, as well as additions thereto, among other immunities and privileges under the same provision.

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 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.[6]

WHEREFORE, premises considered, accused's **Submission** is **NOTED**, while his **Manifestation – with Motion to Dismiss** is **GRANTED**. Accordingly, CTA Crim. Case Nos. O-692 and O-693 entitled *People of the Philippines vs. Antonio Lee Tiu* is **DISMISSED.**

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[5] In the Compliance and Comment filed by registered mail on June 30, 2021 and received by this Court on July 1, 2021, the prosecution states that a Manifestation was filed to this Court that Revenue District Officer Saripoden M. Bantog of RDO No. 43 – Pasig City issued a Certification confirming that Antonio Lee Tiu settled its tax liabilities under Tax Amnesty Law of sixty percent (60%) of the basic tax and paid a total amount of ₱8,544,867.89 at UCPB.

[6] *Commissioner of Internal Revenue vs. Transfield Philippines, Inc.,* G.R. No. 211449, January 16, 2019.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Leave)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice