REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

FSM CINEMAS, INC.,
Petitioner,

- versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 7526

Members:

CASTAÑEDA, JR, *Chairperson*
UY, and
PALANCA-ENRIQUEZ, *JJ.*

Promulgated:
OCT 2 4 2008
9:05 a.m.

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RESOLUTION

For resolution is petitioner's **"Motion to Declare the Alleged Deficiency Value-Added Tax Assessments Extinguished Under Republic Act No. 9480"** filed on August 20, 2008, without respondent's comment/opposition thereto despite notice.

In its motion, petitioner avers that it has availed of the tax amnesty on March 4, 2008 and has complied with the conditions for immunity under Republic Act (R.A.) No. 9480 (Tax Amnesty Act of 2007). It prays that: (1) its alleged deficiency VAT for the 3rd quarter of the taxable year 2002 in the amount of P1,137,416.75, inclusive of interests and penalties, covered by FAN No. VT-01317-02-05-0449, and its alleged deficiency VAT for the 4th Quarter of the taxable year 2002 in the amount of P774,275.38, inclusive of interests and penalties, covered by FAN No. VT-01318-02-05-0449 be considered extinguished; and (2) it be declared immune from any form and type of enforcement and/or collection proceedings, administrative or juridical relative to the foregoing taxes.

In support of its motion, petitioner filed a **"Manifestation"** on August 27, 2008 submitting faithful reproduction of the original of the following documents:

a. BIR Form No. 2116 (Tax Amnesty Return);
b. BIR Form No. 0617 (Tax Amnesty Payment Form);
c. Notice of Availment of Tax Amnesty;
d. Statement of Assets, Liabilities and Networth as of December 31, 2005;
e. Balance Sheet as of December 31, 2005; and
f. Metrobank's Payment Slip for Companies with Collection Arrangements dated March 4, 2008 showing the amount of P250,000.00 as paid.

Considering the allegations of the petitioner in its **"Motion to Declare the Alleged Deficiency Value Added Tax Assessments Extinguished under Republic Act No. 9480"** and the relief being prayed for, petitioner's motion is hereby treated as a **"Motion to Withdraw the Petition"** in the above-captioned case.

This Court would like to stress that a taxpayer desiring to avail of the benefits of a tax amnesty must comply with the requirements prescribed under Section 2 of R.A. No. 9480, which provides:

> "Sec. 2. *Availment of the Amnesty.* – Any person, natural or juridical, who wishes to avail himself of the tax amnesty authorized and granted under this Act shall file with the Bureau of Internal Revenue (BIR) <u>a notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005, in such form as may be prescribed in the implementing rules and regulations (IRR) of this Act, and pay the applicable amnesty tax within six months from the effectivity of the IRR.</u>" *(Underscoring Ours)*

Moreover, under the Implementing Rules and Regulations,[1] and as further outlined in Revenue Memorandum Circular (RMC) No. 19-2008 entitled "Circularizing the Full Text of 'A Basic Guide on the Tax Amnesty Act of 2007' for Taxpayers Who Wish to Avail of the Tax Amnesty Pursuant to Republic Act No. 9480 (Tax Amnesty Act of 2007)", a taxpayer availing of the program must present the original, or faithful reproduction of the original, or certified true of copy the following documents:

1. Notice of Availment of Tax Amnesty;
2. Statement of Assets, Liabilities and Networth (SALN);
3. Tax Amnesty Return (BIR Form No. 2116); and
4. Payment Form (BIR Form No. 0617)

A perusal of the records of the case shows that pertinent documents were already submitted on August 27, 2008 by petitioner as attachments to its "Manifestation". Upon examination thereof, the Court finds that the same documents have sufficiently complied with the provisions of R.A. No. 9480 and its implementing rules and regulations.

Hence, considering that petitioner has fully complied with the prescribed requisites of the tax amnesty law, and is deemed a duly qualified tax amnesty applicant, the subject tax deficiencies in the case at bench are extinguished provided that petitioner's SALN as of December 31, 2005 is not understated to the extent of the thirty percent (30%) or more as may be established in proceedings to be initiated by, or at the instance of, parties

[1] Department of Finance Department Order No. 29-07, August 15, 2007.

other than the BIR or its agents within a period of one (1) year from availment of the amnesty program.[2]

WHEREFORE, premises considered, the instant motion being treated as a Motion to Withdraw the Petition, is hereby **GRANTED.** Accordingly, the instant Petition for Review filed on October 2, 2006 is hereby deemed **WITHDRAWN,** and the case is considered **CLOSED** and **TERMINATED**, subject to the provisions of R.A. No. 9480.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

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[2] Section 4, R.A. No. 9480.