REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>SECOND DIVISION</u>

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM. CASE NOS. O-572, O-573, & O-610**
	Members:
- versus -	**CASTAÑEDA, JR.**, *Chairperson,* **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
ALEXANDER R. GARCIA, OWNER/OPERATOR OF SACRED HEART DENTAL CENTER, Accused.	Promulgated: FEB 10 2022 2:11 p.m.

x - x

AMENDED DECISION

CASTAÑEDA, JR., J.:

Submitted before this Court for resolution are the following:

1. accused's **Omnibus Motion for Reconsideration of: (1) the Denial of the Urgent Ex-Parte Motion to Hold in Abeyance the Promulgation of Judgment and Suspend Further Proceedings dated 10 February 2021 and (2) to Set Aside or Suspend the Effectivity of the Decision dated 15 February 2021** filed on March 1, 2021, with prosecution's **Compliance with Comment (Re: Accused's Omnibus Motion for Reconsideration filed on March 01, 2021)** filed, through private courier, on May 17, 2021;

2. accused's **Motion to Set Aside Decision and to Dismiss the Cases, Accused having Availed of the Tax Amnesty Act (RA 11213)** filed on June 3, 2021, with prosecution's **Comment (Re: Accused's Motion to Set Aside Decision and to Dismiss the Cases, Accused having Availed of the Tax Amnesty Act [RA 11213] filed on June 03, 2021)** filed on July 6, 2021; and,

3. accused's **Manifestation Re: Compliance of Resolution dated 17 November 2021** filed on December 6, 2021.

To recall, on February 15, 2021, the Court promulgated a Decision finding the accused guilty beyond reasonable doubt on three (3) counts of violation of Section 255 of the National Internal Revenue Code (NIRC) of 1997 for taxable years 2011, 2012, and 2013, the dispositive portion of the said Decision reads as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the Court finds the accused, Alexander R. Garcia, **GUILTY BEYOND REASONABLE DOUBT** on three (3) counts of violation of Section 255 of the NIRC of 1997, for taxable years 2011, 2012, and 2013. For each of the consolidated criminal cases, he is hereby sentenced to an indeterminate penalty of one (1) year, as minimum, to two (2) years as maximum term of imprisonment, and is **ORDERED TO PAY** a fine in the amount of ₱10,000.00, with subsidiary imprisonment in case he has no property with which to meet such fine, pursuant to Section 280 of the NIRC of 1997.
>
> Moreover, the accused **ORDERED TO PAY** the Bureau of Internal revenue the aggregate amount of **₱29,706,593.06**, representing his deficiency income tax liabilities, including increments thereto, for taxable years 2011, 2012, and 2013.
>
> **SO ORDERED**."

On March 1, 2021, accused filed the present Omnibus Motion for Reconsideration praying that the Motion for Reconsideration of the Denial of his Urgent Ex-Parte Motion to Hold in Abeyance the Promulgation of Judgment and Suspend Further Proceedings Dated 10 February 2021 be granted; that a new Resolution be issued suspending the effectivity of the Court's Decision until after the Supreme Court would have resolved accused's Petition for Certiorari; or that accused be granted the last opportunity to present his evidence. *gr*

Subsequently, on June 3, 2021, accused filed a Motion to Set Aside Decision and to Dismiss the Cases, Accused having Availed of the Tax Amnesty Act (RA 11213). Accused stated therein that he availed of the Tax Amnesty on Delinquencies under Republic Act (RA) No. 11213,[1] and that he paid the corresponding taxes due thereon in the total amount of ₱10,611,529.98 for taxable years 2011, 2012, and 2013. He even attached to the subject motion the photocopies of the Acceptance Payment Forms and receipts of payment by the BIR to prove his claim.

On July 6, 2021, the prosecution confirmed the foregoing facts in its Comment (Re: Accused's Motion to Set Aside Decision and to Dismiss the Cases, Accused Having Availed of the Tax Amnesty Act (RA 11213) filed on June 03, 2021). The prosecution appended in the said comment, the Certification dated June 30, 2021 issued by the Revenue District Office (RDO) No. 27-Caloocan City, stating that the collections of the tax due (subject of the Memorandum Request) were verified and found included in the Integrated Tax System, and that the collections were made thru over-the-counter payment and remitted per Consolidated Report on Daily Collection.

Nonetheless, in the Resolution dated July 30, 2021, the Court directed accused to submit the originals or certified true copies of the following documents: (1) Certificate of Tax Delinquencies/Tax Liabilities issued by the concerned BIR offices; (2) Tax Amnesty Return (BIR Form No. 2118-DA); (3) Acceptance Payment Form (BIR Form No. 0621-DA); (4) Deposit Slip/s issued by the authorized agent bank; and (5) Notice of Issuance of Authority to Cancel Assessment, in order to verify and confirm his availment of Tax Amnesty.

As such, on October 8, 2021, accused filed a Manifestation Re: Compliance of Resolution dated July 30, 2021 on October 8, 2021, appending therein the certified true copies of the following documents:

Reference	**Document**
Annex A	Certificate of Tax Delinquencies/Tax Liabilities.
Annex B	Tax Amnesty Return (BIR Form No. 2118-DA).
Annexes C,	Acceptance Payment Forms (BIR Form No.

jc

[1] "AN ACT ENHANCING REVENUE ADMINISTRATION AND COLLECTION BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2017 AND PRIOR YEARS WITH RESPECT TO ESTATE TAX, OTHER INTERNAL REVENUE TAXES, AND TAX ON DELINQUENCIES," dated February 14, 2019.

C-1, and C-2	0621-DA) for taxable years 2011, 2012, and 2013, respectively.
Annexes D, D-1 and D-2	Deposit slips issued by the authorized agent bank.
Annex E	Notice of Issuance of Authority to Cancel Assessment for taxable year 2011.

However, after perusal of the submitted documents, the Court noted that the Notice of Issuance of Authority to Cancel Assessment dated July 16, 2021, issued by Ms. Alicia DT. Palmaria, Chief, Collection Division of Revenue Region No. 5, Caloocan City (appended as Annex "E"), pertains only to the cancellation of accused's tax liabilities for taxable year 2011, instead of the three (3) taxable years involved in the present consolidated cases. Thus, in the Resolution dated November 17, 2021, the Court directed accused to submit the original or certified true copies of the Notice of Issuance of Authority to Cancel Assessment for taxable years 2012 and 2013, within ten (10) days from notice thereof.

On December 6, 2021, accused filed the present Manifestation Re: Compliance of Resolution Dated 17 November 2021, submitting the original copies of the Notices of Issuance of Authority to Cancel Assessment for the taxable years 2012 and 2013, as Annexes "A" and "B", respectively.

The Court now resolves.

At the outset, it bears noting that that the judgment of conviction has yet to become final and executory with the timely filing of the instant Omnibus Motion for Reconsideration. Guided by the foregoing, the Court shall now rule whether accused qualifies for the said tax amnesty and whether it fully complied with all the conditions thereof

Accused is covered by Title IV (Tax Amnesty on Delinquencies) of RA No. 11213.

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: *gr*

"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:

x x x x x x x x x

(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**;

x x x x x x x x x."

In the present consolidated cases, considering that the subject deficiency tax involved is income tax, one of the internal revenue taxes explicitly covered by the Tax Amnesty law, and the fact that the crime charged against the accused (violation of Section 255 of the NIRC of 1997) falls under Chapter II of Title X and Section 275 of the NIRC of 1997, as amended, accused's is therefore covered by the provisions of RA No. 11213.

Accused has properly availed of the Tax Amnesty of Delinquencies under RA No. 11213.

As to the entitlement and availment of the benefits provided under RA No. 11213, Sections 18, 19 and 20 thereof, respectively provides as follows, *viz:* 𝒿𝓁

"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:

x x x x x x x x x

(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**

x x x x x x x x x

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, <u>a sworn Tax Amnesty on Delinquencies Return accompanied by a Certification of Delinquency</u>. 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 and 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. *pr*

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)*

Evidently, it is clear from the foregoing provisions that the Tax Amnesty law 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.

Moreover, upon compliance with all the conditions set forth in RA No. 11213 and payment of the pertinent amnesty tax, the tax delinquency of the availing taxpayer shall be considered settled; 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 NIRC of 1997, as amended. In addition, the *Authority to Cancel Assessment* (ATCA) shall be issued by the BIR in favor of the taxpayer availing of the Tax Amnesty on Delinquencies, within fifteen (15) calendar days from submission to the BIR of the *Acceptance Payment Form* and the *Tax Amnesty on Delinquencies Return.* Otherwise, the duplicate copies, stamped as received, of the said *Form* and *Return* shall be deemed as sufficient proof of availment. More so, the same Form and Return shall be submitted to the Revenue District Office (RDO) after complete payment; and the completion of these requirements shall be deemed full compliance with the provisions of RA No. 11213.

Again, in order to avail of the Tax Amnesty on Delinquencies under RA No. 11213, petitioner must, within one (1) year from the effectivity the Implementing Rules and Regulations (RR) thereof, *i.e.*, Revenue Regulations (RR) No. 4-2019, or from April 24, 2019,[2] submit to the RDO No. 027 - Caloocan City, where it 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*.[3] However, the provision of Section 3 of RR No. 4-2019, particularly the availment period, was extend until April 23, 2020,

[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] Section 19, RA No. 11213.

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. Consequently, the filing of the returns and payment of the corresponding amnesty tax by the accused on May 26, 2021, was well within the extended period provided under RR No. 32-2020.

Relative thereto, Revenue Memorandum Circular (RMC) No. 135-2019,[4] enumerates, *inter alia*, the procedures that must be strictly complied by any person who would avail of the subject tax amnesty, to wit:

> "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 supplied)*

Accordingly, to prove his availment of the said Tax Amnesty and payment of the corresponding tax thereon, accused submitted the originals or certified true copies of the following documents, to wit:

[4] "SUBJECT: Reiteration of the Prescribed Procedures in the Availment of the Tax Amnesty on Delinquencies (TAD) and Additional Clarification on Issues Raised Relative thereto," dated December 11, 2019.

1. *Certificate of Tax Delinquencies/Tax Liabilities* dated October 9, 2019, issued by the OIC-Chief, Prosecution Division of the BIR, Mr. Zeus Gamaliel S. Mendoza;[5]

2. *Tax Amnesty on Delinquencies Returns* (BIR Form No. 2118-DA), which is under oath and filed with RDO No. 027 - Caloocan City on May 26, 2021;[6]

3. *Acceptance Payment Forms* (BIR Form No. 0621-DA) which is stamped "received" by UCPB – Caloocan Branch on May 26, 2021,[7] with accompanying bank deposit slips evenly dated, all machine validated by the same bank;[8] and

4. *Notices of Issuance of Authority to Cancel Assessment,*[9] issued by Chief, Collection Division, Ms. Alicia DT. Palmaria, on July 16, 2021.

From the above documents, it cannot be denied that accused complied with all the required documents mandated by the Tax Amnesty Tax on Delinquencies and its implementing rules and regulations.

Also worth noting is that the prosecution itself confirmed in its Comment (Re: Accused's Motion to Set Aside Decision and to Dismiss the Cases, Accused Having Availed of the Tax Amnesty Act (RA 11213) filed on June 03, 2021), as well as in the appended Certification dated June 30, 2021,[10] that accused had indeed of the Tax Amnesty on Delinquencies and paid the amount of tax due equivalent to sixty percent (60%) of his basic tax liability.

All told, in view of the fact that accused is duly qualified to avail of the said tax amnesty under RA No. 11213, and has satisfied the conditions set forth thereunder, as well as the payment of the pertinent amnesty taxes, the Court is constrained to terminate and deem as closed the present criminal cases. Accordingly, the Court need not belabor to address the other issues raised by the accused in his other pleadings.

---

[5] Annex "A", Manifestation Re: Compliance of Resolution dated July 30, 2021.
[6] Annexes "B", "B-1", and "B-2", Manifestation Re: Compliance of Resolution dated July 30, 2021.
[7] Annexes "C", "C-1", and "C-2", Manifestation Re: Compliance of Resolution dated July 30, 2021
[8] Annexes "D", "D-1", and "D-2", Manifestation Re: Compliance of Resolution dated July 30, 2021
[9] Annex "E", Manifestation Re: Compliance of Resolution dated July 30, 2021; and Annexes "A" and "B", Manifestation Re: Compliance of Resolution dated 17 November 2021.
[10] Annex "B" to accused's Comment (Re: Accused's Motion to Set Aside Decision and to Dismiss the Cases, Accused Having Availed of the Tax Amnesty Act (RA 11213) filed on June 03, 2021).

WHEREFORE, premises considered, accused's Manifestation Re: Compliance of Resolution dated 17 November 2021, filed on December 6, 2021, is **NOTED**. While accused's Motion to Set Aside Decision and to Dismiss the Cases, Accused having Availed of the Tax Amnesty Act (RA 11213), is **GRANTED**.

Moreover, accused's Omnibus Motion for Reconsideration of: (1) the Denial of the Urgent Ex-Parte Motion to Hold in Abeyance the Promulgation of Judgment and Suspend Further Proceedings dated 10 February 2021 and (2) to Set Aside or Suspend the Effectivity of the Decision dated 15 February 2021 is rendered **MOOT** in view of accused's availment of the Tax Amnesty on Delinquencies under RA No. 11213. Accordingly, the Decision promulgated on February 15, 2021 is hereby amended to read as follows:

> "**WHEREFORE**, with accused's availment of the Tax Amnesty on Delinquencies pursuant to Republic Act No. 11213, otherwise known as the Tax Amnesty Act, the instant consolidated cases herein are hereby **TERMINATED** and **DEEMED CLOSED**.
>
> **SO ORDERED**."

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

We concur:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
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 Amended Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice