REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

KEPCO ILIJAN CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9324

Members:

CASTAÑEDA, JR., *Chairperson, and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JUN 2 7 2019
2:01 p.m.

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RESOLUTION

For this Court's resolution are the following:

1. petitioner's **Manifestation and Motion to Render Judgment Based on the Parties' Compromise Settlement Under Section 204(A) of the NIRC**, filed on January 17, 2019;

2. respondent's **Manifestation**, filed on March 29, 2019; and

3. petitioner's **Manifestation**, filed on April 2, 2019.

In petitioner's Manifestation and Motion filed on January 17, 2019, petitioner prays that this Court render judgement pursuant to the parties' compromise settlement under Section 204(A) of the National Internal Revenue Code (Tax Code), finding that the instant case is closed and terminated. Petitioner also attached the following documents:

1. Bureau of Internal Revenue's ("BIR") undated Final Decision on Disputed Assessment ("FDDA") for taxable year 2009;[1]

2. BIR's undated FDDA for taxable year 2011;[2]

3. Copy of the BIR Form No. 0605 for the year 2011 in the amount of Php30,031,906.73;[3]

4. Copy of the BIR Form No. 0605 for the year 2011 in the amount of Php266,745.74;[4]

5. Copy of the BIR Form No. 0605 for the year 2011 in the amount of Php27,055.26;[5]

6. Copy of the BIR Form No. 0605 for the year 2011 in the amount of Php45,000.00;[6]

7. Certified True Copy of petitioner's Certificate of Availment issued by the BIR on December 18, 2018;[7] and

8. Copy of Revenue Delegation Authority Order No. 6-2007 dated August 10, 2007.[8]

The Court ordered respondent to submit his comment on the aforementioned Manifestation and Motion in its Resolution promulgated on January 23, 2019.

As such, respondent filed his Compliance on February 7, 2019, stating therein that a Certificate of Availment (Compromise Settlement) dated December 18, 2018 was issued to petitioner and attaching a certified true copy of the said Certificate for ready reference of the Court.

Certificate of Availment (Compromise Settlement) No. CAC201700008260 certifies that Kepco Ilijan Corporation availed of

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[1] Petitioner's Manifestation and Motion to Render Judgment Based on the Parties' Compromise Settlement Under Section 204(A) of the NIRC ("Manifestation and Motion"); Annex "A".
[2] Petitioner's Manifestation and Motion; Annex "B".
[3] Petitioner's Manifestation and Motion; Annex "C".
[4] Petitioner's Manifestation and Motion; Annex "D".
[5] Petitioner's Manifestation and Motion; Annex "E".
[6] Petitioner's Manifestation and Motion; Annex "F".
[7] Petitioner's Manifestation and Motion; Annex "G".
[8] Petitioner's Manifestation and Motion; Annex "H".

the provisions of Revenue Regulations (RR) No. 30-2002, and that the application for the compromise settlement of deficient Final Withholding and Withholding on Value-Added taxes amounting to **Five Hundred Fifty Million Six Hundred Forty Seven Thousand Two Hundred Nineteen & 83/100 Pesos Only (₱550,647,219.83)** under Assessment Nos. WF-2009-00077, WG-2009-00078, WF/WG-2011-00001 and WF-2012-00006, WG-2012-00005 dated November 16, 2012, January 13, 2014 and August 10, 2015 covering taxable years 2009, 2011 and 2012 have been approved by the NEB on December 18, 2018.

However, the Court noted that no Joint Compromise Agreement, signed by the duly authorized representatives of both parties, has been submitted to this Court from which the prayed judgment on a compromise can be based.

Also, no proof was submitted by petitioner as regards the authority of its officer to enter into a compromise agreement with respondent as to its tax deficiencies and penalties assessed for taxable years 2009, 2011 and 2012.

For such reasons, the Court cannot ascertain whether the stipulations in the subject compromise agreement are not contrary to law, morals, good customs, public order and public policy.

In its manifestation dated March 29, 2019, the respondent stated there was no judicial compromise agreement was entered into by the parties and that what petitioner did was to apply for compromise under Section 204(A) of the Tax Code as implemented by RR No. 30-2002. Its application was later approved by the NEB on December 18, 2019.

In its manifestation dated April 2, 2019, petitioner states that it availed of the BIR's compromise settlement program under Section 204(A) of the Tax Code as implemented by RR No. 30-2002. Petitioner avers that in its letter addressed to Commissioner Caesar R. Dulay, it specifically applied for the global compromise of its tax assessments for the taxable year 2012. Petitioner submits that its application for the compromise was strictly in compliance with the provisions of Section 204(A) of the NIRC and that the same was stringently evaluated and assessed by the responsible officers of the BIR in accordance with Revenue Memorandum Order (RMO) No. 20-2007, as amended by RMO No. 4-2016.

Moreover, in its manifestation dated April 2, 2019, petitioner stated that the parties claim that their administrative compromise pursuant to Section 204(A) of the Tax Code and the BIR's relevant rules and regulations do not require the parties' execution of a compromise agreement. Instead of such compromise agreement, the Certificate of Availment is the primary document which will show that petitioner applied for and availed of the BIR's compromise settlement program, and that after thorough evaluation, such application was thereafter duly approved by respondent Commissioner and the NEB.

Finally, petitioner provided a copy of Kepco Ilijan Corporation's Secretary Certificate, showing the authority of Mr. Ahn, Soonchan to represent petitioner in securing the compromise settlement of its 2009, 2011 and 2012 tax assessments, is attached to this Manifestation, in compliance with the Court's resolution dated March 8, 2019.

From the foregoing, it appears that petitioner is only requesting that the case be considered closed and terminated, and not for the Court to render judgment on compromise, the basis of which would be a compromise agreement. Accordingly, the Court shall consider the instant motion with the manifestations filed by petitioner as a motion to withdraw petition for review in view of the compromise settlement availed by petitioner under Section 204(A) of the Tax Code.

WHEREFORE, the parties' Manifestations are **NOTED**, and considering that the compromise has been approved by the NEB, and there being no objection from the respondent, the instant Petition for Review is considered **WITHDRAWN** and the instant case docketed as CTA Case No. 9324 is hereby considered **CLOSED** and **TERMINATED**.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice