REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

MOOG CONTROLS CORPORATION – PHILIPPINE BRANCH,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1809
(CTA Case No. 9077)

x - - - - - - - - - - - - - - - - - - - x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

MOOG CONTROLS CORPORATION – PHILIPPINE BRANCH,
Respondent.

CTA EB NO. 1810
(CTA Case No. 9077)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
JAN 25 2022
11:37 a.m.

x - x

JUDGMENT BASED ON COMPROMISE AGREEMENT

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is the "Joint Motion for Judgment Based on Compromise Agreement" (**Joint Motion for Judgment**) filed by the parties, Moog Controls Corporation – Philippine Branch (**Moog-PH**) and Commissioner of Internal Revenue (**CIR**), on 14 December 2020.[1]

To recap, Moog-PH was issued a Final Assessment Notice (**FAN**) and Formal Letter of Demand (**FLD**), both dated 15 August 2014. It was assessed for its alleged deficiency income tax for fiscal year (**FY**), that ended 03 October 2009 in the total amount of ₱12,206,739.18, inclusive of the basic tax due of ₱6,397,845.78 and interest up to 31 August 2014.

On 05 June 2015, the Bureau of Internal Revenue (**BIR**) issued a Final Decision on Disputed Assessment (**FDDA**) denying Moog-PH's protest and supplemental position papers, and reiterating the FAN and FLD.

Subsequently, the Second Division rendered the Decision dated 03 January 2018[2] partially granting Moog-PH's prior Petition for Review and holding it liable for basic deficiency income tax in the reduced amount of ₱6,379,870.18, exclusive of 25% surcharge and 20% deficiency and delinquency interest.

On 22 February 2018, the Second Division promulgated an Amended Decision[3] to incorporate the changes in the computation of deficiency and delinquency interests brought about by Republic Act (**RA**) No. 10963[4], otherwise known as Tax Reform for Acceleration and Inclusion (**TRAIN**).

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[1] Rollo (CTA EB No. 1809), pp. 165-168.
[2] Id., pp. 13-32.
[3] Id., pp. 34-44.
[4] An Act Amending Sections 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, and 288; Creating New Sections 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, and 265-A; and Repealing Sections 35, 62, And 89; All

On 14 November 2019, the Court *En Banc* promulgated a Decision[5] both denying the Petitions for Review separately filed by Moog-PH and the CIR, and further modifying the imposition of deficiency and delinquency interests taking into account the issuance of Revenue Regulations (**RR**) No. 21-2018.[6]

To the Court *En Banc*'s Decision, Moog-PH filed its Motion for Reconsideration[7] (**MR**) while the CIR filed his own Motion for Partial Reconsideration[8] (**MPR**).

Later, the parties filed the subject Joint Motion for Judgment with the attached original Judicial Compromise Agreement[9] (**JCA**). The contents of which reads as follows:

...

JUDICIAL COMPROMISE AGREEMENT

KNOWN ALL MEN BY THESE PRESENTS:

This **JUDICIAL COMPROMISE AGREEMENT** (**"Agreement"**), made and executed, by and between:

> **MOOG CONTROLS CORPORATION- PHILIPPINE BRANCH ("TAXPAYER")**, a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at the Philippine Economic Zone, Loakan [Road], Baguio City, Philippines, represented by its **Finance Manager, MR. RICHARD VILLARICO**;
>
> \- and-
>
> The **BUREAU OF INTERNAL REVENUE ("BIR")**, with principal office at Bureau of Internal Revenue, National Office Building, Agham Road, Diliman, Quezon City, represented by the **Commissioner, HON. CAESAR R. DULAY** (collectively, the **"PARTIES"**);

Under Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended, and for Other Purposes.

5 Rollo (CTA EB No. 1809), pp. 93-105.

6 Regulations Implementing Section 249 (Interest) of the National Internal Revenue Code (NIRC) of 1997, as amended under Section 75 of the Republic Act (RA) No. 10963 or the "Tax Reform for Acceleration and Inclusion (TRAIN Law)".

7 Rollo (CTA EB No. 1809), pp. 114-125.

8 Id., pp. 127-132.

9 Id., pp. 169-174.

- Witnesseth That-

WHEREAS, the **BIR** issued to the **TAXPAYER** a Formal Letter of Demand ("**FLD**") dated 15 August 2014 for the year 2009 assessing the **Taxpayer** alleged deficiency taxes for an aggregate amount of Php12,206,739.18;

WHEREAS, the TAXPAYER then filed with the **BIR** its Protest dated 12 September 2014 disputing the above **FLD** dated 15 August 2014;

WHEREAS, the **BIR** issued a FINAL DECISION ON DISPUTED ASSESSMENT ("**FDDA**") dated 05 June 2015, which denied the Protest filed by the **TAXPAYER** and reiterating its assessment in the above aggregate amount of Php12,206,739.18;

WHEREAS, the **TAXPAYER** instituted an action against the **BIR** entitled "***Moog Controls Corporation- Philippine Branch vs. Commissioner of Internal Revenue***", docketed as CTA EB No. 1809 (CTA Case No. 9077), consolidated with ***Commissioner of Internal Revenue vs. Moog Controls Corporation- Philippine Branch***", docketed as CTA EB No. 1810 (CTA Case No. 9077), pending before the Honorable Court of Tax Appeals ("**CTA**") En Banc;

WHEREAS, the **TAXPAYER** has submitted to the BIR a **Letter to Apply for a Compromise Settlement** dated 20 January 2020, 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;

WHEREAS, the Honorable CTA has issued rulings allowing judicial compromises similar to the instant case.

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;

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 Php6,379,870.18 representing 100% of its basic tax dues as per **FLD and FDDA ("Judicial Compromise Amount").**

Section 2. Submission to the Honorable CTA. This Agreement fully signed by the **PARTIES** shall be submitted for the approval of the Honorable CTA in CTA EB Case No. 1809 and CTA EB Case No. 1810 (CTA Case No. 9077). The **PARTIES** undertake to perform any and all acts, and submit any and all documents required by the Honorable CTA to be able to render a **Judgment by Compromise Agreement** in the said case.

Section 3. Effectivity of the Agreement. This **Agreement** shall take effect and bind the **PARTIES** upon approval by 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 15 August 2014 and **FDDA** dated 05 June 2015.

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** also warrants that its Finance Manager, **Richard Villarico**, 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 EB Case No. 1809 and CTA EB Case No. 1810 (CTA Case No. 9077). Upon approval by the court, the BIR recognizes the full satisfaction of the supposed tax liability of the **TAXPAYER** in connection with CTA EB Case No. 1809 and CTA EB Case No. 1810

(CTA Case No. 9077) 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 EB Case No. 1809 and CTA EB Case No. 1810 (CTA Case No. 9077).

Section 7. Disapproval of this Agreement by the Honorable CTA. In the event that this **Agreement** is disapproved by the Honorable CTA, the **PARTIES** agree to a curing period of sixty (60) days from receipt of the Order/Resolution disapproving this Agreement. During such curing period, the **PARTIES** mutually agree to perform any and all acts necessary to rectify or correct the deficiency, defect or imperfection which caused its disapproval, and re-submit the rectified or corrected Agreement for approval of the Honorable CTA. However, in case the deficiency, defect or imperfection is not or cannot be rectified or corrected within the said curing period, or still not approved by the Honorable CTA after it is rectified or corrected by the parties:

1. The amount already paid by the **TAXPAYER** to the BIR shall be deemed a tax credit which may be applied against internal revenue taxes for which the **TAXPAYER** may be directly liable, as allowed under existing rules and regulations; and

2. The proceedings of CTA EB Case No. 1809 and CTA EB Case No. 1810 (CTA Case No. 9077) shall continue and the discussions pursuant to the disapproved Agreement cannot be used by the **PARTIES** in said proceeding unless consent of the other party be obtained.

Section 8. No Admission of Liability. The execution of this **Agreement** shall not constitute or be interpreted in any way as an admission or acknowledgement of error or liability by the **PARTIES**.

Section 9. Non-Performance. The **PARTIES** agree that the failure of any **PARTY** to comply with any of the terms and conditions of this Agreement shall entitle the aggrieved **PARTY** to file an appropriate motion with the Honorable CTA for the immediate implementation and execution of the terms and conditions of this Agreement or the judgment or order of the Honorable CTA approving the same.

Section 10. Signatures and Counterparts. This Agreement may be signed in counterparts, each of which when executed and delivered shall constitute a duplicate original, but all of which shall be taken together as a single instrument. Until and unless each party has received a counterpart hereof signed by the other party hereto, the Agreement shall have no effect and no party shall have any right or obligation hereunder.

IN WITNESS WHEREOF, the **PARTIES** hereto have mutually and voluntarily agreed to the foregoing stipulations and have hereunto signed these presents at the date and place indicated above.

MOOG CONTROLS CORPORATION-PHILIPPINE BRANCH	**BUREAU OF INTERNAL REVENUE**
By:	By:
(Sgd.) **RICHARD VILLARICO** Finance Manager	(Sgd.) **HON. CAESAR R. DULAY** Commissioner

Witnesses:

(Sgd.) __________________	(Sgd.) __________________[10]

...

The parties likewise submitted original computer print-outs of the following: (1) BIR Form No. 0605 (Payment Form)[11] stating that Moog-PH paid the amount of ₱6,379,870.18 as full payment of the 2009 tax assessment; and, (2) BIR Electronic Filing and Payment System (**eFPS**) payment confirmation.[12]

Previously or on 08 January 2021[13], the Court *En Banc* issued a Resolution requiring the parties to submit the originals or certified true copies of the Certificate of Availment (**CA**) showing the approval of the National Evaluation Board (**NEB**) of the BIR and the authority of Richard Villarico (**Villarico**) to enter into the JCA.

On 18 May 2021, Moog-Ph filed a Compliance[14] submitting the proof of authority of Villarico to enter into the said JCA.[15]

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[10] Emphasis and underscoring in the original text.
[11] Rollo (CTA EB No. 1809), p. 176.
[12] Id., p. 177.
[13] Id., pp. 179-182.
[14] Id., pp. 201-203.
[15] Id., pp. 205-211.

On 20 May 2021, the CIR filed his Compliance *via* email.[16] Later, on 07 June 2021, it also submitted the hardcopies[17] thereof, along with a true copy of the CA.[18]

On 21 June 2021, the CIR filed another Compliance[19] submitting therewith a certified true copy of the signature page of the CA.[20]

On 26 July 2021, the Court *En Banc* issued a Resolution[21] requiring the parties to submit a manifestation and clarify the following noted discrepancies and/or submit additional documents to correct the same:

1. The JCA states that Moog-PH paid the amount of ₱6,379,870.18 representing 100% of its basic tax dues *per* FLD and FDDA. The FLD and FDDA, however, state that the basic tax assessed amounted to ₱6,397,845.78.

2. On the other hand, the amount ₱6,379,870.18 pertains to the reduced amount of the basic tax assessed, exclusive of 25% surcharge and 20% deficiency and delinquency interests, *per* Second Division's Amended Decision and as affirmed by the Court *En Banc*. It is further noted that the reduced amount of basic tax assessed of ₱6,379,870.18 is the same amount paid *per* BIR Payment Form.

3. Based on the CA, Moog-PH supposedly settled the deficiency income tax (IT) amounting to ₱7,974,837.73 pursuant to the Court *En Banc*'s Decision.

On 14 October 2021, the parties filed a Joint Manifestation[22] explaining as follows:

16 Id., pp. 213-216.
17 Id., pp. 220-222.
18 Id., p. 224.
19 Id., pp. 226-228.
20 Id., p. 230.
21 Id., pp. 232-236.
22 Id., pp. 237-241.

1. The parties acknowledge the correctness of the Amended Decision. Thus, when they entered into the JCA, they mutually agreed that petitioner's full settlement of its alleged tax dues for taxable year 2009 shall be the reduced amount of ₱6,379,870.18, exclusive of any surcharge and/or interest;

2. The statement in the JCA that the above amount paid by petitioner was pursuant to the FLD and FDDA is a mere inadvertent error;

3. Their true intention is the settlement of the amount of ₱6,379,870.18, as stated in the JCA and in the Amended Decision hence the same amount paid in the BIR Form No. 0605; and,

4. The amount in the CA is a mere clerical error since the NEB also used as basis in its approval a copy of the signed and duly notarized JCA.

We resolve.

Section 204(A) of the 1997 National Internal Revenue Code (**NIRC**), as amended, provides:

...

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) A reasonable doubt as to the validity of the claim against the taxpayer exists; 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 (P1,000,000) 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.

...

In connection thereto, Section 6 of RR No. 30-2002[23], as amended by RR 9-2013[24], states:

...

SEC. 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 majority of all the members of the** NEB 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 concurrence of the Commissioner.[25]

xxx xxx xxx

<u>The compromise offer shall be paid by the taxpayer upon filing of the application for compromise settlement. No application for compromise settlement shall be processed without the full settlement of the offered amount. In case of disapproval of the application for compromise settlement, the amount paid upon filing of the aforesaid application shall be deducted from the total outstanding tax liabilities.</u>[26]

xxx xxx xxx

...

Furthermore, Revenue Memorandum Order (**RMO**) No. 3-2017[27] also provides, as follows:

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23 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.

24 Amending Certain Provisions of Revenue Regulations No. 30-2002.

25 Emphasis supplied.

26 Underscoring in the original text.

27 Amending Further the Prescribed Format for the Certificate of Availment/Approval and Notice of Denial Relative to Application for Compromise Settlement and/or Abatement of Penalties Pursuant to Section 204 of the Tax Code, as Amended.

> ...
>
> **All approved applications for compromise settlement and/or abatement of penalties shall be issued Certificate of Availment (CA)** following the prescribed format as per attached Annexes "A" and "B", while denied applications shall be issued Notice of Denial (ND) following prescribed format as per attached annexes "C" and "D".[28]
>
> ...

From the foregoing, a compromise settlement of any tax liability where the basic tax involved exceeds ₱1,000,000.00 must bear the approval of the majority of all NEB members. Such approval shall be evidenced by a CA following the prescribed format.

Records show that the parties were able to submit certified true copies of the CA[29] and its signature page[30] (showing the unanimous approval of all members of NEB).

Furthermore, the parties' Joint Manifestation[31] likewise reveals that their true intention is to settle at the amount of ₱6,379,870.18, which is equivalent to 100% of the basic tax assessed pursuant to the Second Division's Amended Decision and the Court *En Banc*'s Decision.

Thus, after careful scrutiny of the parties' documents, submitted in support of the JCA, the Court *En Banc* finds the same in order and in compliance with the established laws, rules and regulations. Hence, the Court *En Banc* approves the same and judgment is hereby rendered based therein.

In *Felipe O. Magbanua, et al. v. Rizalino Uy*[32], the Supreme Court ruled as follows:

> ...
>
> A compromise agreement is a contract whereby the parties make reciprocal concessions in order to resolve their differences and thus avoid or put an end to a lawsuit. They adjust their difficulties in the

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[28] Emphasis supplied.
[29] Supra at note 18.
[30] Supra at note 20.
[31] Supra at note 22.
[32] G.R. No. 161003, 06 May 2005; Citations omitted.

manner they have agreed upon, disregarding the possible gain in litigation and keeping in mind that such gain is balanced by the danger of losing. Verily, the compromise may be either extrajudicial (to prevent litigation) or judicial (to end a litigation).

A compromise must not be contrary to law, morals, good customs and public policy; and must have been freely and intelligently executed by and between the parties. To have the force of law between the parties. it must comply with the requisites and principles of contracts. Upon the parties, it has the effect and the authority of *res judicata*, once entered into.

When a compromise agreement is given judicial approval, it becomes more than a contract binding upon the parties. Having been sanctioned by the court, it is entered as a determination of a controversy and has the force and effect of a judgment. It is immediately executory and not appealable, except for vices of consent or forgery. The nonfulfillment of its terms and conditions justifies the issuance of a writ of execution; in such an instance, execution becomes a ministerial duty of the court.

...

The issue involving the validity of a compromise agreement notwithstanding a final judgment is not novel. *Jesalva v. Bautista* upheld a compromise agreement that covered cases pending trial, on appeal, and with final judgment. The Court noted that Article 2040 impliedly allowed such agreements; there was no limitation as to when these should be entered into. *Palanca v. Court of Industrial Relations* sustained a compromise agreement, notwithstanding a final judgment in which only the amount of back wages was left to be determined. The Court found no evidence of fraud or of any showing that the agreement was contrary to law, morals, good customs, public order, or public policy.

Gatchalian v. Arlegui upheld the right to compromise prior to the execution of a final judgment. The Court ruled that the final judgment had been novated and superseded by a compromise agreement. Also, *Northern Lines, Inc. v. Court of Tax Appeals* recognized the right to compromise final and executory judgments, as long as such right was exercised by the proper party litigants.

...

There is no justification to disallow a compromise agreement, solely because it was entered into after final judgment. The validity of the agreement is determined by compliance with the requisites and principles of contracts, not by when it was entered into. As provided by the law on contracts, a valid compromise must have the following elements: (1) the consent of the parties to the compromise, (2) an object certain that is the subject matter of the compromise, and (3) the cause of the obligation that is established.

...

WHEREFORE, in view of the foregoing, Moog Controls Corporation – Philippine Branch and Commissioner of Internal Revenue's Joint Motion for Judgment Based on Compromise Agreement filed on 14 December 2020 is hereby **GRANTED.** The Judicial Compromise Agreement entered into by the parties is **APPROVED.** Having been impressed with judicial imprimatur, the parties are hereby **ENJOINED** to faithfully comply with all the terms and conditions of the aforesaid Judicial Compromise Agreement.

The parties' pending Motion for Reconsideration and Motion for Partial Reconsideration, respectively, are now considered **MOOT AND ACADEMIC**. Accordingly, this case is now deemed **CLOSED AND TERMINATED.**

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

INHIBITED

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Judgment Based on Compromise Agreement were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice