REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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EAST WEST BANKING CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A CASE NO. 7090

Members:

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated:

SEP 10 2008

x - x

DECISION

BAUTISTA, *J.*:

The instant *Petition for Review* seeks the reversal of the undated *Final Decision on Disputed Assessment* of respondent, which denied petitioner's protest and sustained the assessment for deficiency Gross Receipts Tax (GRT) for taxable year 2000, in the aggregate amount of P989,111.17, inclusive of increments.

East West Banking Corporation (petitioner) is a corporation duly organized and existing under and by virtue of Philippine laws, with principal office located at 6795 Ayala Avenue corner Rufino Street, Salcedo Village, Makati City. It is duly registered with the Securities and Exchange Commission and authorized by the *Bangko Sentral ng Pilipinas* to engage in commercial banking operations in the Philippines.[1]

[1] Par. 1, Joint Stipulation of Facts and Issues (JSFI), Docket, p. 72

The Commissioner of Internal Revenue (respondent) is the duly appointed officer of the Bureau of Internal Revenue (BIR) with the power to decide disputed assessments, subject to the exclusive appellate jurisdiction of this Court.[2]

In his Formal Letter of Demand dated June 28, 2004 and Assessment Notice No. GRT-00-000038, respondent assessed petitioner of deficiency GRT on the onshore income of its Foreign Currency Deposit Unit (FCDU) for taxable year 2000 in the amount of P989,111.17, inclusive of increments.[3]

On August 18, 2004, petitioner filed its protest-letter dated August 17, 2004 against the said assessment with the BIR Large Taxpayers Service.

On September 24, 2004, petitioner received the undated *Final Decision on Disputed Assessment*, which denied with finality the protest of petitioner.[4] In particular, respondent affirmed the assessment issued by the BIR examiners and held petitioner liable in the aggregate amount of P989,111.17, inclusive of increments, computed as follows:[5]

Onshore Income	P 9,757,274.00
GRT Rate	5%
Basic Deficiency GRT Due	487,863.70
Surcharge	121,965.93
Interest (1/25/01-9/30/04)	359,281.54
Compromise	20,000
Deficiency GRT	**P 989,111.17**

On October 25, 2004[6] or within thirty (30) days from receipt of the *Final Decision on Disputed Assessment*, petitioner filed with this Court the instant *Petition for Review*.

After respondent filed his *Answer* on January 10, 2005, pre-trial conference was held on March 11, 2005. On May 17, 2005, the parties filed their *Joint Stipulation of Facts and Issues*, which was approved by the Court in a Resolution dated May 19, 2005.

During trial, petitioner presented its testimonial and documentary evidence in support of its position. However, respondent was declared by the Court to have waived his

[2] Par. 4, JSFI, Docket, p. 73
[3] Par. 6, JSFI, Docket, p. 73
[4] Par. 9, JSFI, Docket, p. 74
[5] Exhibit "A", Docket, p. 117
[6] October 24, 2004, was a Sunday

right to present evidence for failure to appear for presentation of evidence on several scheduled hearing dates.[7] Respondent moved for the reconsideration of the Court's order, but it was denied for lack of merit.

On January 18, 2008, petitioner's counsel manifested in open court that petitioner filed on June 29, 2007 an *Application for Abatement of Interest and Penalties* under Revenue Regulations No. 15-2006[8], in respect of the tax assessments subject of the present Petition. Accordingly, petitioner paid 100% of the basic tax due on the tax assessment as required under said Revenue Regulation.

The Court issued a Resolution requiring petitioner to submit within thirty (30) days from January 18, 2008 or until February 17, 2008, a Termination Letter cancelling the subject assessment. However, on February 15, 2008, petitioner manifested that it will not be able to comply with the Court's order since petitioner's application for abatement is still awaiting review and signature of respondent.

On March 25, 2008, the case was submitted for decision taking into consideration the respective Memorandum filed by petitioner and respondent on December 10, 2007 and December 17, 2007, respectively.[9]

On July 7, 2008, petitioner manifested that a Termination Letter dated December 27, 2007 had already been issued by respondent covering Assessment Notice No. GRT-00-000038, subject of the instant *Petition for Review*. The Termination Letter was issued in view of petitioner's application and compliance with respondent's abatement program under Revenue Regulations No. 15-2006. A certified true copy of the Termination Letter was attached as Annex "A" of the Manifestation. The Termination Letter states in part:

> "This refers to your availment of the **ONE TIME ADMINISTRATIVE ABATEMENT of all penalties, surcharge and interest**, pursuant to the provisions of Section 204 of the Tax Code, as amended and implemented by Revenue Regulations No. 15-2006, bearing on your internal revenue tax liabilities, to wit:

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[7] Resolution dated July 25, 2007, Docket, p. 171

[8] "Implementing a One-Time Administrative Abatement of All Penalties/Surcharges and Interest on Delinquent Accounts and Assessments (Preliminary or Final, Disputed or Not) as of June 30, 2006"

[9] Resolution dated March 25, 2008, Docket, p. 250

xxx xxx xxx

In this connection, we are pleased to inform you that in view of your availment of the aforesaid benefits granted under the special provisions of Section 204 of the National Internal Revenue Code (NIRC) as amended, and its implementing rules and regulations, and **the payment of the total amount of FOUR HUNDRED EIGHTY SEVEN THOUSAND EIGHT HUNDRED SIXTY THREE PESOS AND 70/100 CENTAVOS (P487,863.70), representing ONE HUNDRED PERCENT (100%) of the basic tax assessed** under this ABATEMENT PROGRAM, the tax liability stated above is hereby **CLOSED AND TERMINATED**." (*Emphasis supplied*)

After evaluating the document presented, the Court finds the same to be complete and in order. Petitioner duly complied with the requirements in availing of the abatement program under Revenue Regulations No. 15-2006. The pertinent portions of Revenue Regulations No. 15-2006 provide:

"SECTION 1. *Purpose*. – These regulations prescribe the guidelines for the availment by taxpayers of the opportunity to settle their delinquent accounts or assessments, preliminary and final, disputed or not, by way of application for abatement of all penalties, including surcharge and interest, under Section 204 of the National Internal Revenue Code (NIRC) of 1997 as another step towards the collection of the Bureau's Accounts Receivables and pending assessments."

"SECTION 2. *Coverage*. – The following cases shall be covered hereof:

xxx xxx xxx

f.) Civil tax cases being disputed before the Department of Justice and the courts, e.g. MTC, RTC, CTA, CA and SC including decided cases which are not yet final and executory except those cases where the Presidential Commission on Good Government (PCGG) has an interest and/or there is a need to coordinate with the PCGG);

xxx xxx xxx"

"SECTION 4. *Who May Avail*. – **Any person/taxpayer, natural or juridical, may settle thru this abatement program any delinquent account or assessment which has been released as of June 30, 2006, by paying an amount equal to One Hundred Percent (100%) of the Basic Tax assessed** with the Accredited Agent Bank (AAB) of the Revenue District Office (RDO)/Large Taxpayers Service (LTS)/Large Taxpayers District Office (LTDO) that has jurisdiction over the taxpayer. In the absence of an AAB, payment may be made with the Revenue Collection Officer/Deputized Treasurer of the RDO that has jurisdiction over the taxpayer. **After payment of the basic tax, the assessment for penalties/surcharge and interest shall be cancelled by the**

> **concerned BIR Office** following existing rules and procedures. **Thereafter, the docket of the case shall be forwarded to the Office of the Commissioner**, thru the Deputy Commissioner for Operations Group, **for issuance of Termination Letter**. xxx" (*Emphasis supplied*)

The effect of compliance with the requirements of the abatement program is stated under Section 4 of the same Revenue Regulation, *viz*:

> "xxx. **After payment of the basic tax, the assessment for penalties/surcharge and interest shall be cancelled by the concerned BIR Office** following existing rules and procedures. **Thereafter, the docket of the case shall be forwarded to the Office of the Commissioner**, thru the Deputy Commissioner for Operations Group, **for issuance of Termination Letter**." (*Emphasis supplied*)

WHEREFORE, premises considered, the instant *Petition for Review* is hereby deemed **WITHDRAWN**. Accordingly, Assessment Notice No. GRT-00-000038 assessing petitioner of deficiency Gross Receipts Tax in the total amount of P989,111.17, inclusive of surcharge, interest and compromise penalty, for taxable year 2000 is hereby **CANCELLED** and **SET ASIDE.**

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairman, First Division