REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

CERTIFICATION INTERNATIONAL PHILS., INC.
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10350

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ*

Promulgated:

JAN 17 2024
3:15 p.m.

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JUDGMENT ON COMPROMISE AGREEMENT

MODESTO-SAN PEDRO, J.:

Before the Court is the ***Philippine Mediation Center-Court of Tax Appeals' (PMC-CTA) Mediator's Report***, with attached ***Compromise Agreement***, filed on 21 September 2022; and the ***Joint Motion to Render Judgment Based on Submitted Compromise Agreement ("Joint Motion")*** filed on 28 September 2022.

On 14 September 2020, Certification International Phils., Inc. ("CIPI" or "petitioner") filed a Petition for Review,[1] asking the Court to render judgment ordering the cancellation and withdrawal of the Final Decision on Disputed Assessment ("FDDA") issued by the Commissioner of Internal Revenue ("CIR" or "respondent") for alleged deficiency income tax, expanded withholding tax ("EWT") and improperly accumulated earnings tax ("IAET") in the total amount of Php9,759,907.07.

Respondent, on the other hand, filed his Answer to the Petition on 4 January 2021.

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[1] See Petition for Review, Docket, pp. 7-28.

On 14 January 2021, the Court issued a Resolution[2] referring the instant case to the PMC-CTA for mediation proceedings, pursuant to ***Section II of the Interim Guidelines for Implementing Mediation in the Court of Tax Appeals***.

On 16 July 2021, the Court was apprised by the mediator, (Ret.) Justice Oswaldo D. Agcaoili, that the preliminary mediation conference was held on 23 June 2021. However, as the 30-day period allowed for settlement of the case would have expired on 23 July 2021, the PMC-CTA requested for a final extension of 30 days or until 22 August 2021 to give the parties additional time within which to reach an amicable settlement.[3] The request was granted by the Court in the Resolution dated 28 July 2021.[4]

On 10 March 2022, the parties jointly filed a Manifestation with Motion narrating that petitioner's offer of compromise has been accepted by the respondent. The corresponding compromise amount was paid and the Compromise Agreement was signed on 23 December 2021.

In view thereof, the Court granted the Manifestation with Motion and ordered for the suspension of the proceedings of the instant case, pending the completion of an amicable settlement between the parties.[5]

On 21 September 2022, the PMC-CTA filed with the Court the Mediator's Report issued on even date, signed by (Ret.) Justice Agcaoili, stating that the parties to the case have reached a "Successful Settlement (Complete Compromise Agreement)", with the following attachments:

1. Compromise Agreement, dated 31 March 2022, signed by Renato V. Navarrete on behalf of petitioner, and respondent Caesar R. Dulay, and attested by (Ret.) Justice Agcaoili;

2. Agreement to Mediate and Selection of Mediator, and Selection of Mediator, both dated 26 May 2021, signed by Atty. Ashley Eve C. Rebadulla on behalf of the petitioner, and by Atty. Liezl G. Bohol on behalf of the respondent, whereby the parties manifested their agreement to have the case mediated through compromise settlement, and the selection of (Ret.) Justice Agcaoili as mediator;

3. Secretary's Certificate, dated 10 September 2020, stating that in the special meeting held by petitioner's Board of Directors on 9 September 2020, the law firm of Sapalo Velez Bundang & Bulilan and/or any of its lawyers were granted the full power and authority

[2] See Resolution dated 14 January 2021, *id.*, pp. 166-167.
[3] See Request for Extension, *id.*, p. 178.
[4] See Resolution dated 28 July 2021, *id.*, p. 180.
[5] See Resolution dated 18 March 2022, *id.* p. 185.

to appear and represent the petitioner in the pre-trial conference, mediation, judicial dispute resolution and all other proceedings in the case filed by the company against the respondent;

4. Special Power of Attorney, dated 1 March 2021, signed by Romulo L. Aguila, Jr. (Aguila), Regional Director of Revenue Region (RR) No. 7B of the BIR, appointing and authoring Atty. Liezl G. Bohol and/or any lawyer from the Legal Division of BIR RR No. 7B, East NCR to appear for and on behalf of the respondent at the mediation of CTA Case No. 10350;

5. Certified true copy of the Certificate of Availment (Compromise Settlement), dated 27 June 2022, signed by Clavelina S. Nacar, OIC-Assistant Commissioner, showing the petitioner's availment of compromise settlement of deficiency income tax, EWT and IAET amounting to Php9,759,907.07;

6. Certified true copy of the Judicial Compromise Agreement approved by majority of the members of the National Evaluation Board (NEB);

7. Signature sheet reflecting the appearances of the representatives of the parties during the mediation conferences held on 23 June, 7 and 22 July 2021; and

8. Printed copies of eFPS filed BIR Form 0605, Filing Reference No., and payment confirmation as proof of settlement of the amounts based on the compromise agreement.

The relevant portions of the Compromise Agreement are quoted below, to wit:

> "WHEREAS, on September 14, 2020, a Petition for Review was filed by petitioner **CERTIFICATION INTERNATIONAL PHILS.** challenging the validity of the Final Decision on Disputed Assessment issued by respondent Commissioner of Internal Revenue in connection with deficiency tax assessments for taxable year 2006. Under the Final Decision on Disputed Assessment, petitioner was required to pay basic tax due in the amount of **One Million Seven Hundred Twelve Thousand Two Hundred Sixty-Four Pesos** (Php1,712,264.00) representing deficiency income tax, **Two Hundred Fifty Three Thousand Five Hundred Forty Two Pesos** (Php253,542.00) representing deficiency expanded withholding tax, and **Eight Hundred Twenty Four Thousand Five Pesos** (Php824,005.00) representing deficiency improperly accumulated earnings tax.
>
> WHEREAS, during mediation proceedings before the Philippine Mediation Center – Court of Tax Appeals, the parties successfully reached compromise agreement to avoid prolonged litigation, as authorized by A.M. No. 11-1-05-SC-PHILJA;

NOW THEREFORE, in view of the limitation in Section 204 of the 1997 National Interna Revenue Code, petitioner has offered and respondent has accepted the amount of **Php684,906.00**, representing 40% of the basic Income Tax, **Php253,542.00**, representing 100% of the basic Expanded Withholding Tax, and **Php329,602.00** representing 40% of the basic Improperly Accumulated Earnings Tax stated in the FDDA."

On 28 September 2022, the parties filed the instant Joint Motion, requesting the Court to render a judgment based on the executed Compromise Agreement.

A review of all the abovementioned documents submitted by the parties and PMC-CTA shows that the same are in order.

Pursuant to ***Section 204(A) of the National Internal Revenue Code, as amended,*** ("***NIRC***"), the CIR is granted the authority to compromise the payment of any revenue tax, to wit:

"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 (₱1,000.000) 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. xxx"
(Emphasis supplied)

Moreover, ***Section 6 of RR No. 30-2002, as amended***, provides that:

> "SECTION 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 <u>majority of all the members of the NEB</u> 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 consequence of the Commissioner.
>
> x x x"
>
> (Emphasis and underscoring supplied)

Based on the above-cited provisions, a compromise settlement is deemed valid provided that the following requirements are present:

1. That the application for compromise should be based on either the **doubtful validity of respondent's assessment** or taxpayer's financial incapacity to pay such assessment;

2. In case the **basis of the compromise offer is doubtful validity, the minimum payment of compromise settlement shall be at the rate equivalent to forty percent (40%) of the basic assessed tax,** while if the ground is financial incapacity, the minimum payment should be at the rate equivalent to ten percent (10%) of the basic assessed tax; and

3. The **approval of the NEB** which is composed of the respondent and his four (4) Deputy Commissioners **if the subject assessment exceeds One Million pesos (₱1,000,000.00)** or where the settlement offered is less than the prescribed minimum rates.

Anent the *first* requisite, the Certificate of Availment shows that the provisions of ***Revenue Regulations No. 30-2022, as amended,***[6] has been availed of by the petitioner, without specifying whether ***Section 3.1*** (on doubtful validity) or ***3.2*** (on financial incapacity) was intended to be applied. However, gleaning from the amounts of basic taxes paid by the petitioner – 40% of basic income tax, 100% of basic EWT and 40% of basic IAET – it can be deduced that the ground relied upon in the compromise settlement is the doubtful validity of the respondent's assessment.

In order to determine whether the assessment's validity is indeed doubtful, the Court refers to ***Section 3 of RR No. 30-2002, as amended,*** which enumerates the instances on when the assessment's propriety is considered doubtful, to wit:

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[6] 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, 16 December 2002; Revenue Regulations No. 08-04, 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. 7-2001 and 30-2002, 19 May 2004.

"SECTION 3. Basis For Acceptance of Compromise Settlement. — The Commissioner may compromise the payment of any internal revenue tax on the following grounds:

1. Doubtful validity of the assessment. — The offer to compromise a delinquent account or disputed assessment under these Regulations on the ground of reasonable doubt as to the validity of the assessment may be accepted when it is shown that:

(a) The delinquent account or disputed assessment is one resulting from a jeopardy assessment (For this purpose, "jeopardy assessment" shall refer to a tax assessment which was assessed without the benefit of complete or partial audit <u>by an authorized revenue officer,</u> who has reason to believe that the assessment and collection of a deficiency tax will be jeopardized by delay because of the taxpayer's failure to comply with the audit and investigation requirements to present his books of accounts and/or pertinent records, or to substantiate all or any of the deductions, exemptions, or credits claimed in his return); or

(b) The assessment seems to be arbitrary in nature, appearing to be based on presumptions and there is reason to believe that it is looking in legal and/or factual basis; or

(c) The taxpayer failed to file an administrative protest on account of the alleged failure to receive notice of assessment and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(d) The taxpayer failed to file a request for reinvestigation/reconsideration within 30 days from receipt of final assessment notice and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(e) The taxpayer failed to elevate to the Court of Tax Appeals (CTA) an adverse decision of the Commissioner, or his authorized representative, in some cases, within 30 days from receipt thereof and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(f) The assessments were issued on or after January 1, 1998, where the demand notice allegedly failed to comply with the formalities prescribed under Sec. 228 of the National Internal Revenue Code of 1997; or

(g) Assessments made based on the "Best Evidence Obtainable Rule" and there is reason to believe that the same can be disputed by sufficient and competent evidence; or

(h) The assessment was issued within the prescriptive period for assessment as extended by the taxpayer's execution of Waiver of the Statute of Limitations the validity or authenticity of which is being questioned or at issue and there is strong reason to believe and evidence to prove that it is not authentic; or

(i) The assessment is based on an issue where a court of competent jurisdiction made an adverse decision against the Bureau, but for which the Supreme Court has not decided upon with finality."

(Emphasis and underscoring supplied)

Clearly, the scenario under ***Section 3(1)(a) of RR No. 30-2002, as amended*** is present in this case. Based on CIPI's Petition for Review,[7] one of the grounds it advanced to prove the invalidity of the assessment is that the examiners lacked the proper authority to conduct the examination of petitioner's financial books and records and to issue the assailed tax deficiency assessment. According to petitioner, the audit investigation was reassigned to a new set of revenue officers merely through a Memorandum of Assignment and thus not properly clothed with authority through the requisite Letter of Authority.

Meanwhile, as regards *second* and *third* requisites, the compromise amounts paid by petitioner appear to be compliant with the 40% minimum payment required under ***Section 204(A)*** of the Tax Code as shown in the table below:

	Basic Tax Assessed	40% of Basic Tax	Amount Paid per Compromise Agreement	Percentage of Basic Tax Paid
Income Tax	Php1,712,264	Php684,905.60	Php684,906	40%
EWT	253,542	101,416.80	253,542	100%
IAET	824,005	329,602.00	329,602	40%

Moreover, the parties have shown that the offer of compromise was approved through the submission of the Judicial Compromise Agreement signed by majority of the members of the NEB showing their acceptance of the petitioner's compromise offer.

The Court accordingly finds that the Compromise Agreement, Certificate of Availment and the signed Judicial Compromise Agreement sufficient evidence of the parties' compliance with the *second* and *third* requisites, respectively.

Thus, in view of faithful observance by the parties of all the requisites under ***Section 204(A) of the NIRC***, the Court grants the parties' ***Joint Motion.***

On this point, the parties are reminded of the purpose of a compromise agreement and the force and effect of the court's approval of the same. Y

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[7] *Supra* note 1.

In the case of ***Far East Bank and Trust Co. et al. v. Trust Union Shipping Corp. et al.,***[8] the Supreme Court explains the objective of compromise agreement, to wit:

> "**A compromise is a contract whereby the parties, by making reciprocal concessions, avoid litigation or put an end to one already commenced.** It is an accepted and desirable practice in courts of law and administrative tribunals. Settlement of disputes brought before the courts is, in fact, encouraged.
>
> It is settled that contracting parties may establish such stipulations, clauses, terms and conditions as they deem convenient, provided that these are not contrary to law, morals, good customs, public order, or public policy."
> (Emphasis supplied)

Once validated by the courts, the compromise agreement becomes more than a mere contract. It has the force and effect of a judgment that is subject to execution and attains the effect and authority of *res judicata*, as discussed by the Supreme Court in the case of ***Viesca vs. Gilinsky,***[9] to wit:

> "A compromise agreement has been described as a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced. A compromise agreement that is intended to resolve a matter already under litigation is normally called a judicial compromise. **Once it is stamped with judicial imprimatur, it becomes more than a mere contract binding upon the parties. Having the sanction of the court and entered as its determination of the controversy, it has the force and effect of any other judgment. Such agreement has the force of law and is conclusive between the parties. It transcends its identity as a mere contract binding only upon the parties thereto, for it becomes a judgment that is subject to execution in accordance with the Rules. Thus, a compromise agreement that has been made and duly approved by the court attains the effect and authority of *res judicata*,** although no execution may be issued unless the agreement receives the approval of the court where the litigation is pending and compliance with the terms of the agreement is decreed."
> (Emphasis and underscoring supplied)

WHEREFORE, premises considered, the parties' **Joint Motion to Render Judgment Based on Compromise Agreement** is **GRANTED.**

The **Compromise Agreement** entered into by the parties is **APPROVED** and this **Judgment on Compromise Agreement** is hereby rendered in accordance therewith. The parties are hereby enjoined to faithfully comply with all the terms and conditions of the aforesaid Compromise Agreement.

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[8] G.R. No. 154716, 16 September 2008.
[9] G.R. No. 171698, 4 July 2007.

Accordingly, this case is now deemed **CLOSED** and **TERMINATED.**

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

A T T E S T A T I O N

I attest that the conclusion in the above Judgment on Compromise Agreement was reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

C E R T I F I C A T I O N

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 Judgment were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice