Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

COSMOS BOTTLING CORPORATION, Petitioner,	CTA Case No. 9405
	Members:
-versus-	Del Rosario, *Chairperson,* Uy, *and* Mindaro-Grulla, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 2 5 2017 1:26pm

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RESOLUTION

For resolution is petitioner's **"Motion to Withdraw Petition for Review"**[1] filed on October 13, 2016, with respondent's **"Comment with Compliance"**[2] filed on April 7, 2017.

Relative to petitioner's Petition for Review and eventual filing of its Motion to Withdraw Petition for Review before this Court, records disclose the following:

> 1. On September 4, 2015, petitioner received the Final Decision on Disputed Assessment (FDDA) dated September 1, 2015 signed by Assistant Commissioner Nestor S. Valeroso assessing petitioner for alleged deficiency taxes in the total amount of ₱3,760,908,104.47 for taxable year 2008.[3]

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[1] Docket, pp. 338-351.
[2] With Annexes "R-1" to "R-10" which are all photocopies
[3] Paragraph 14, Petition for Review, Docket, p. 13; Details of the FDDA are as follows:

Tax	Amount
Income tax	₱ 2,820,757,297.29
Value-added tax (VAT)	792,870,187.46
Expanded Withholding Tax on Compensation (WC)	89,697,604.97
Expanded Withholding Tax (EWT)	51,254,808.91

2. On October 2, 2015, petitioner filed its Request for Reconsideration of the FDDA addressed to Hon. Kim S. Jacinto-Henares, the then Commissioner of Internal Revenue, praying that the deficiency tax assessments per FDDA be reconsidered and modified.[4]

3. On July 1, 2016, **petitioner received the Letter (Final Decision) dated June 29, 2016 of the then Commissioner of Internal Revenue Kim S. Jacinto-Henares denying petitioner's request for reconsideration** on the ground that petitioner's arguments were mere rehash of its previous arguments in its protest letter against the Formal Letter of Demand (FLD).[5]

4. On July 11, 2016, petitioner filed a Letter of even date addressed to Commissioner of Internal Revenue Caesar R. Dulay questioning the Letter (Final Decision) of the then Commissioner of Internal Revenue Kim S. Jacinto-Henares for allegedly hastily denying petitioner's request for reconsideration and for being unjust and unreasonable.[6]

5. On July 29, 2016, petitioner filed before this Court its Petition for Review praying for the cancellation and withdrawal of the FDDA.[7]

6. On September 29, 2016, an Amended FDDA for taxable year 2008 was issued by Deputy Commissioner of Internal Revenue, Operations Group, Officer-in-Charge, Nestor S. Valeroso, finding petitioner liable for deficiency income tax and VAT in the total amount of ₱51,092,511.97,[8] inclusive of interests and penalties, which petitioner paid on September 30, 2016.

7. October 13, 2016, petitioner filed the Motion to Withdraw Petition for Review.

Documentary Stamp Tax (DST)	6,328,205.84
Total	**₱ 3,760,908,104.47**

[4] Paragraph 16, Petition for Review, Docket, p. 13.
[5] Paragraph 17, Petition for Review, Docket, p. 13.
[6] Annex R-10 of respondent's Comment with Compliance filed on April 7, 2017, Docket, unpaginated.
[7] Docket, pp. 10-45.
[8] Sum of deficiency Income Tax of P50,700,074.74 and deficiency Value-added Tax of P392,437.23.

In the Resolution dated October 20, 2016, the Court directed respondent to comment on petitioner's Motion to Withdraw Petition for Review within five (5) days from receipt of the certified copy of the Motion's Annexes "A", "B", "B-1", "C" and "C-1" which petitioner should furnish to respondent via personal service within ten (10) days from notice.[9]

Per Records Verification dated December 27, 2016, respondent failed to file comment on petitioner's Motion to Withdraw Petition for Review.[10] Thus, on January 10, 2017, petitioner's Motion to Withdraw Petition for Review was submitted for resolution, without respondent's comment.[11]

In the February 9, 2017 Resolution,[12] the Court after judiciously reviewing the Motion to Withdraw Petition for Review and noting the peculiarity of the facts attending the present case deemed it proper to reiterate its order for respondent to comment on petitioner's Motion to Withdraw Petition for Review, which shall state among others, the following:

1. The authority of the Deputy Commissioner of the BIR's Operations Group, Officer-in-Charge, Nestor S. Valeroso, to issue the Amended FDDA;

2. The legal basis for reducing the deficiency tax liabilities of petitioner from over **3.7 Billion Pesos**[13] per FDDA to a little over **51 Million Pesos**[14] per Amended FDDA; and,

3. Respondent Honorable Commissioner Caesar R. Dulay's position anent the amended FDDA.

The resolution of petitioner's Motion to Withdraw Petition for Review was accordingly held in abeyance.

As afore-stated, respondent filed his "Comment with Compliance" on April 7, 2017.

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[9] Docket, pp. 354-355.
[10] Docket. p. 382.
[11] Resolution, Docket, p. 387.
[12] Docket, pp. 390-392.
[13] ₱3,760,908,104.47.
[14] ₱51,092,511.97.

Withdrawal of the Petition for Review

Anent the withdrawal of the petition, respondent in his Comment with Compliance posits that such withdrawal is without prejudice to the right of respondent to further pursue any claim that BIR may have against petitioner by way of deficiency assessments for taxable year 2008. Petitioner also reserves his right to order a review and pursue any action that it may have against petitioner on any matter covered by the 2008 assessments and states that he is not waiving any right available to him under the law in connection with such assessment.[15]

Under the Revised Rules of the Court of Tax Appeals (RRCTA), the Rules of Court applies suppletorily to the RRCTA and the procedure in the Court En Banc or in Division in original and in appealed cases shall be the same as those in petitions for review or appeals before the Court of Appeals. In this regard, Section 3, Rule 50 of the Rules of Court provides:

> "DISMISSAL OF APPEAL
>
> xxx
>
> SEC. 3. Withdrawal of appeal. – **An appeal may be withdrawn as of right at any time before the filing of the appellee's brief.** Thereafter, the withdrawal may be allowed in the discretion of the court." (Boldfacing supplied)

Since respondent has yet to file his Answer and respondent does not object to the motion to withdraw, the Court finds no basis to deny petitioner's motion.

As afore-mentioned, petitioner filed the Motion to Withdraw Petition for Review on the basis of a purported Amended FDDA which substantially reduced petitioner's deficiency tax liabilities from over 3.7 Billion Pesos per FDDA to a little over 51 Million Pesos. Yet, the Amended FDDA was issued during the pendency of its Petition for Review before this Court seeking the nullification and cancellation of the FDDA and Letter (Final Decision) sustaining the FDDA. For this reason, the Court opts to discuss hereunder, by way of ***obiter dictum***, the consequence of the issuance of the Amended FDDA and the ensuing withdrawal of the Petition for Review. The Court finds that while the timely appeal to the CTA of the Commissioner of Internal Revenue's final decision prevented the FDDA and Letter (Final Decision) from becoming final, executory and demandable, its

[15] Paragraph 15, Comment with Compliance, Docket, unpaginated.

withdrawal shall render the FDDA and Letter (Final Decision) final, executory and demandable.

Authority of Deputy Commissioner Nestor S. Valeroso to issue the Amended FDDA

Respondent explains that Deputy Commissioner Valeroso issued the subject Amended FDDA in his capacity as the Officer-in-Charge of the Bureau per Revenue Special Order dated September 2, 2016 issued by the Secretary of Finance:

> 8. As to the **first matter**, it is respectfully manifested that from September 5, 2016 up to October 5, 2016, herein respondent [Commissioner of Internal Revenue] was officially on medical leave. Attached hereto as *Annex "R-3"* is respondent's Application for Leave approved by the Secretary of Finance.
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> 9. There are four (4) deputies of the BIR, and in view of respondent's absence, Section 32, Chapter 6, Book IV of the Administrative Code of 1987 was applied:
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> > SECTION 32. *Acting Head of Bureau or Office.* – In case of the absence or disability of the head of a bureau or office, his duties shall be performed by the assistant head. **<u>When there are two or more assistant heads, the Secretary shall make the designation</u>**. In the absence of an assistant head, the Secretary may designate any officer or employee of the bureau or office as acting head without additional compensation.
> >
> > Thus, consistent with Section 32 of the Administrative Code, the Secretary of Finance designated Deputy Commissioner-Operations Group Nestor S. Valeroso as Officer-in-Charge of the Bureau. Attached hereto as *Annex "R-4"* is the official designation issued by the Secretary of Finance.
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> 10. On the date the promulgation of the Amended Final Decision on Disputed Assessment (FDDA) on September 29, 2016, herein respondent, as mentioned, was on medical leave and during said period Deputy Commissioner Nestor S. Valeroso was Officer-in - Charge of the Bureau of Internal Revenue as designated by the Secretary of Finance. Ostensibly, it was in his capacity as OIC-Commissioner that he approved the issuance of the subject Amended FDDA as recommended by the BIR Large Taxpayers Service, the office in charge of the matter.

While Deputy Commissioner Valeroso was duly designated as Officer-in-Charge of the Bureau when the subject Amended FDDA was issued, the Court notes that such Amended FDDA is without legal mooring, as hereinafter discussed.

Issuance of the Amended FDDA

Relative to the issuance of the Amended FDDA which significantly reduced petitioner's tax liabilities, respondent avers that it is the result of the re-evaluation of the protest filed by petitioner to controvert the issues raised in the FDDA:

> 11. As to the second matter, an explanation on the legal basis for the reduction of petitioner's tax liabilities, from Php3,760,908,104.47 per FDDA to Php51,092,511.97 per Amended FDDA, was required from the BIR Large Taxpayers Service. The Regular Large Taxpayers Audit Division I, the office that was particularly involved in the evaluation of facts and evidence, submitted a copy of Memorandum Report which became the basis for Deputy Commissioner Valeroso to approve the Amended FDDA.
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> 12. Attached hereto as *Annexes "R-5", "R-5-A", "R-5-B", "R-6", "R-7", "R-8",* and *"R-9"* are the sworn statements of RO Carolyn Mendoza. Group Supervisor Rosario A. Arriola, Section Chief Juvy S. Dela Pena, Assistant Division Chief Glorializa G. Samoy and Division Chief Shirley Calapatia which provides the explanation on the legal basis for the reduction of petitioner's tax liabilities. The preparation of the Memorandum dated September 26, 2016 (Annex "R-5-A") as basis for the eventual issuance of the Amended FDDA was apparently in response to the letter of petitioner dated 11 July 2016 attached hereto as (Annex "R-5-10"). Petitioner requested for a "second look" and was offering to settle their case administratively instead of going to the Court. As can be seen from the said report, it was the result of the re-evaluation of the protest filed by petitioner to controvert the issues raised in the FDDA.
>
> 13. Evaluation of the proposal as well as the evidence was done by RO Carolyn V. Mendoza. Her findings (*Annex "R-5-A")* were then formalized in aforesaid Memorandum report dated September 26, 2016. The report along with the docket of the case was then reviewed by her Group Supervisor Rosario A. Arriola. These same findings were then reviewed by their Section Chief Juvy S. Dela Pena. The same review procedure was undertaken by Assistant Division Chief Glorializa G. Samoy. This was again reviewed by the Division Chief Shirley Calapatia; LTS Regular Head Revenue Executive Assistant (HREA) Olivia A. Lao; and Teresita M. Angeles, OIC-Assistant Commissioner-LTS and they all recommended approval of the amended FDDA to Deputy Commissioner Valeroso.

Relevant to the issuance of the FDDA and Amended FDDA is Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, and Revenue Regulations (RR) No. 12-99, as amended by RR 18-2013, which pertinently read:

Section 228, NIRC of 1997

SEC. 228. *Protesting of Assessment.* – When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: *xxx*

xxx *xxx* *xxx*

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer **adversely affected by the decision or inaction may appeal to the Court of Tax Appeals** within thirty (30) days from receipt of said decision or from the lapse of the one hundred eighty (180)-day period; otherwise, **the decision shall become final, executory and demandable.**

Revenue Regulations (RR) No. 12-99, as amended by RR 18-2013

"SECTION 2. Amendment. — Section 3 of RR 12-99 is hereby amended by deleting Section 3.1.1 thereof which provides for the preparation of a Notice of Informal Conference, thereby renumbering other provisions thereof, and prescribing other provisions for the assessment of tax liabilities. Section 3 of RR 12-99 shall now read as follows:

SECTION 3. ***Due Process Requirement in the Issuance of a Deficiency Tax Assessment. —***

3.1 Mode of procedure in the issuance of a deficiency tax assessment:

3.1.1 *Preliminary Assessment Notice (PAN).* - xxx

3.1.2 *Exceptions to Prior Notice of the Assessment.* – xxx

3.1.3 *Formal Letter of Demand and Final Assessment Notice (FLD/FAN).* — The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. The FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based; *otherwise, the assessment shall be void* (see illustration in ANNEX "B" hereof).

3.1.4 Disputed Assessment. — **The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30)**

days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:

(i) Request for reconsideration — refers to a plea of re-evaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.

(ii) Request for reinvestigation - refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that the taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.

xxx xxx xxx

If the taxpayer fails to file a valid protest against the FLD/FAN within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable. No request for reconsideration or reinvestigation shall be granted on tax assessments that have already become final, executory and demandable.

If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.

If the protest is not acted upon by the Commissioner's duly authorized representative within one hundred eighty (180) days counted from the date of filing of the protest in case of a request reconsideration; or from date of submission by the taxpayer of the required documents within sixty (60) days from the date of filing of the protest in case of a request for reinvestigation, **the taxpayer may either: (i) appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner's duly authorized representative on the disputed assessment.**

If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. **Otherwise, the assessment shall become final, executory and demandable. A motion for reconsideration of the Commissioner's denial of the protest or administrative appeal, as the case may be, shall not toll the thirty (30)-day period to appeal to the CTA.** If the protest or administrative appeal is not acted upon by the Commissioner within one hundred eighty (180)

> days counted from the date of filing of the protest, the taxpayer may either: (i) appeal to the CTA within thirty (30) days from after the expiration of the one hundred eighty (180)-day period; or **(ii) await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after the receipt of a copy of such decision.**
>
> It must be emphasized, however, that in case of inaction on protested assessment within the 180-day period, **the option of the taxpayer to either: (1) file a petition for review with the CTA within 30 days after the expiration of the 180-day period; or (2) await the final decision of the Commissioner or his duly authorized representative on the disputed assessment and appeal such final decision to the CTA within 30 days after the receipt of a copy of such decision, are mutually exclusive and the resort to one bars the application of the other.**" (*Boldfacing supplied*)

Pursuant to the afore-quoted law and regulations, a taxpayer who is adversely affected by the FDDA issued by the representative of the Commissioner of Internal Revenue may either file a Petition for Review with the CTA or elevate the protest through request for reconsideration (an administrative appeal of the FDDA) with the Office of the Commissioner of Internal Revenue, both within thirty (30) days from receipt of the FDDA. **If the request for reconsideration or administrative appeal is denied by the Commissioner of Internal Revenue, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision; otherwise, the assessment shall become final, executory and demandable.** A motion for reconsideration of the Commissioner of Internal Revenue's denial of the request for reconsideration or administrative appeal shall not toll the thirty (30)-day period to appeal to the CTA.

In this case, petitioner opted to appeal the FDDA dated September 1, 2015 signed by the representative of the Commissioner of Internal Revenue to the then Commissioner of Internal Revenue Kim S. Jacinto-Henares by filing a Request for Reconsideration on October 2, 2015.[16] As aforestated, on July 1, 2016, petitioner received the **Letter (Final Decision) dated June 29, 2016 of the then Commissioner of Internal Revenue Kim S. Jacinto-Henares denying petitioner's request for reconsideration or administrative appeal.**[17] The Letter (Final Decision) clearly states that **it is the final decision of the Commissioner of Internal Revenue and that if petitioner disagrees, it may appeal the final decision to the CTA within thirty (30) days from date of receipt; otherwise, the assessments shall become final, executory and demandable**.

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[16] Paragraph 16, Petition for Review, Docket, p. 13.
[17] Paragraph 17, Petition for Review, Docket, p. 13.

To prevent the FDDA from becoming final, executory and demandable, petitioner filed the Petition for Review before the CTA on July 29, 2016. **Yet, despite the perfection of appeal before the CTA, an Amended FDDA was nonetheless issued which the Court observes is fraught with legal infirmity as it is an action beyond the Bureau's authority to do so.** Parenthetically, the filing of a motion for reconsideration of a final decision of the Commissioner of Internal Revenue does not toll the 30-day period within which to appeal the Letter (Final Decision) to the CTA, as in truth, petitioner is precluded from moving for a reconsideration of the Commissioner of Internal Revenue's Final Decision. This has been clarified in ***Fishwealth Canning Corporation vs. Commissioner of Internal Revenue***,[18] *viz.*:

> "The Decision dated August 2, 2005 reiterates the findings of the BIR on petitioner's income tax and VAT liabilities for the taxable year 1999 and the demand for immediate payment thereof. The wordings of the said Ruling signify a final determination on petitioner's tax deficiencies being ripe for judicial review.
>
> **It bears stressing that the respondent's Final Decision on Disputed Assessment clearly instructed petitioner to file an appeal, and not a Motion for Reconsideration.**
>
> Hence, **a Final Decision on Disputed Assessment issued by the Commissioner of Internal Revenue precludes the filing of a Motion for Reconsideration because the said Motion does not toll the thirty day period within which the taxpayer may appeal the case before the Court of Tax Appeals**." *(Boldfacing supplied)*

The filing of a motion for reconsideration of the Commissioner of Internal Revenue's final decision on the protest, *i.e.* issuance of the Letter (Final Decision) sustaining the FDDA, is not a remedy available under the law and rules. For this reason, the validity of the Amended FDDA issued by Deputy Commissioner Valeroso, in response to petitioner's July 11, 2016 Letter, cannot be confirmed by this Court.

Reduction of petitioner's tax liabilities per Amended FDDA

Section 204(A) of the NIRC of 1997, as amended, empowers the CIR to abate and compromise taxes and at the same time, limits the CIR's authority to compromise by categorically stating that **"where the basic tax involved exceeds One million pesos (P1,000,000) xxx,**

[18] CTA EB No. 223, July 5, 2007; penned by Associate Justice Juanito C. Castañeda, Jr. with then Presiding Justice Ernesto D. Acosta and Associate Justices Erlinda P. Uy, Caesar A. Casanova and Olga Palanca-Enriquez concurring.

the compromise shall be subject to the approval of the Evaluation Board xxx":

> "Section 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 exists 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.**
>
> (B) Abate or cancel a tax liability, when:
>
> (1) The tax or any portion thereof appears to be unjustly or excessively assessed; or
>
> (2) The administration or collection cost involved do not justify the collection of the amount due.
>
> All criminal violations may be compromised except: (a) those already filed in court, or (b) those involving fraud. xxx" (*Boldfacing supplied*)

RR No. 30-2002[19], on the other hand, implements Sections 7(c),[20] 204(A)[21] and 290[22] of the NIRC of 1997, as amended, relative to the CIR's authority to compromise the payment of internal revenue tax liabilities of taxpayers. Section 2 of RR No. 30-2002 lists the cases which may be compromised:

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[19] 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, dated December 16, 2002
[20] SEC. 7. Authority of the Commissioner to Delegate Power.
[21] SEC. 204 Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.
(A) Compromise the payment of any internal revenue tax xxx.
[22] SEC. 290. Congressional Oversight Committee.

1. Delinquent accounts;

2. Cases under administrative protest after issuance of the Final Assessment Notice to the taxpayer which are still pending in the Regional Offices, Revenue District Offices, Legal Service, Large Taxpayer Service (LTS), Collection Service, Enforcement Service and other offices in the National Office;

3. **Civil tax cases being disputed before the courts;**

4. Collection cases filed in courts; and

5. Criminal violations, other than those already filed in court or those involving criminal tax fraud.

Based on the afore-cited law and regulations, petitioner may indeed enter into a compromise, considering that the present petition falls under the category of "civil tax cases being disputed before the courts".

The foregoing notwithstanding, Deputy Commissioner Valeroso had no authority to issue an Amended FDDA after the then Commissioner of Internal Revenue had rendered her Final Decision. Besides, even if the Amended FDDA may be considered as an administrative compromise between petitioner and the BIR, still Deputy Commissioner Valeroso, acting in his capacity as the Officer-in-Charge of the Bureau, may not -- solely by himself -- enter into a compromise agreement. As categorically provided in Section 204, *supra,* **compromise of basic tax involving more than ₱1,000,000.00 shall be <u>subject to the approval of the Evaluation Board</u>. Since the compromise was without the approval of the Evaluation Board, the same is invalid. Surely, the CIR cannot arrogate to himself the power vested in the Evaluation Board.**

In sum, the Letter (Final Decision) dated June 29, 2016 of the then Commissioner of Internal Revenue Kim S. Jacinto-Henares sustaining the FDDA, as far as petitioner is concerned, is the Commissioner of Internal Revenue's final decision which may be elevated to the CTA for its review within the thirty (30) day period. While the timely appeal to the CTA of the Commissioner of Internal Revenue's Final Decision prevented the FDDA and Letter (Final Decision) dated June 29, 2016 from becoming final, executory and demandable, **the withdrawal of the Petition for Review shall render the FDDA as well as the Letter (Final Decision) dated June 29, 2016 final, executory and demandable**.

WHEREFORE, premises considered, Petitioner's Motion to Withdraw Petition for Review is **GRANTED**.

For clarification, the Court declares that in allowing the withdrawal of the Petition for Review, the Court does not in any way confirm the validity of the Amended FDDA dated September 29, 2016 issued by Deputy Commissioner of Internal Revenue, Operations Group, Officer-in-Charge, Nestor S. Valeroso.

Respondent's Compliance filed on April 7, 2017 pursuant to the February 9, 2017 Resolution ordering respondent to show cause why he or his counsels failed to comply with the October 20, 2016 Resolution is **NOTED**.

The case is deemed **CLOSED** and **TERMINATED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Cielito N. Mindaro-Grulla

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice