REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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PEPSI COLA FAR EAST TRADE DEVELOPMENT CO., INC., Petitioner,	**C.T.A. CASE NO. 6391**
	Members:
- versus -	**ACOSTA,** *Chairperson* **BAUTISTA,** and **CASANOVA,** JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** MAR 19 2009 ; 1:20 pm

x - x

RESOLUTION

On March 19, 2008, petitioner filed a **"Manifestation and Omnibus Motion (1) For Confirmation of Petitioner's Immunity under the Tax Amnesty Program; and (2) For Withdrawal of Petitioner's Motion to Suspend Collection of Tax,"** and prayed for a Resolution (1) taking note of its availment of tax amnesty under Republic Act No. 9480 and confirming all the immunities and privileges thereto; and (2) considering its Motion to Suspend Collection of Tax filed on January 17, 2008 as moot and withdrawn. Further, petitioner attached copies of the Notice of Availment of Tax Amnesty and Chinabank's BTr-BIR Deposit Slip dated March 5, 2008.

On June 3, 2008, the Court issued a Resolution, the dispositive portion of which reads:

> "**WHEREFORE,** the resolution of petitioner's Manifestation and Omnibus Motion is hereby held in abeyance, pending the submission by petitioner of the originals or certified true copies of the aforementioned documents within fifteen (15) days from receipt hereof. Upon receipt of the required documents or the expiration of the period granted, petitioner's Manifestation and Omnibus Motion shall be submitted for resolution.
>
> **SO ORDERED.**"

Pursuant thereto, petitioner filed a **"Manifestation and Motion for Comparison"** on June 23, 2008, and alleged therein that it is submitting copies of its Acceptance of Payment Form, Notice of Availment, Statement of Assets, Liabilities and Networth as of December 31, 2005, Tax Amnesty Return, and Certification dated June 16, 2008 issued by Chinabank. However, none of the said documents were attached to the said Manifestation and Motion.

During the July 11, 2008 hearing, petitioner presented, marked and compared the originals with the faithful reproductions of BIR Deposit Slip of Chinabank dated March 5, 2008, Tax Amnesty Payment Form (BIR Form No. 0617), Notice of Availment of Tax Amnesty, Tax Amnesty Return for 2005 (BIR Form No. 2116), Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005, and Certification dated June 16, 2008 issued by Chinabank.

Subsequently, petitioner filed its **"Compliance and Formal Offer of Evidence"** on July 28, 2008. The Court issued a Resolution on October 16, 2008, the decretal portion of which reads:

> "**WHEREFORE,** premises considered, the resolution of petitioner's instant **"Compliance and Formal Offer of Evidence"**, **"Manifestation and Omnibus Motion"** filed on

> March 19, 2008, and **"Motion to Suspend Collection of Tax"** filed on January 17, 2008 are hereby held in abeyance. Accordingly, let this case be set for the final presentation of petitioner's witness to properly identify the documents offered as proof of its availment of the tax amnesty on November 6, 2008, at 9:00 a.m.
>
> **SO ORDERED.**"

On January 15, 2009, petitioner presented as witnesses, Atty. Cresencio T. Meneses I, and Ms. Juliet C. Martirez, who testified on petitioner's availment of tax amnesty and identified the documents related thereto. Counsel for respondent cross-examined said witnesses.

On January 29, 2009, petitioner filed its **"Motion to Admit Supplemental Formal Offer of Evidence"**, with attached **"Supplemental Formal Offer of Evidence."**

Acting on the said Motion and considering that respondent failed to file Comment/Objection thereto despite notice, the Court hereby **RESOLVES** to **GRANT** petitioner's **"Motion to Admit Supplemental Formal Offer of Evidence**." Accordingly, petitioner's Supplemental Formal Offer of Evidence is hereby **ADMITTED**.

Acting upon petitioner's **"Compliance and Formal Offer of Evidence"** filed on July 28, 2008 and **"Supplemental Formal Offer of Evidence"** filed January 29, 2009, the Court hereby **RESOLVES** to **ADMIT Exhibits "N", "N-1", "N-2", "N-3", "N-4", "N-5", "O",** and **"O-1,"** subject to this Court's final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in this case.

Petitioner's **"Manifestation"** filed on March 19, 2008, stating that it availed of the tax amnesty under RA No. 9480 on March 5, 2008 is **NOTED.**

The Supreme Court, in *Philippine Banking Corp. v. Commissioner of Internal Revenue* (G.R. No. 170574, January 30, 2009, declared: "xxx Considering that the completion of these requirements shall be deemed full compliance with the tax amnesty program, the law mandates that the taxpayer shall thereafter be immune from the payment of taxes, and additions thereto, as well as the appurtenant civil, criminal or administrative penalties under the NIRC of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years."

WHEREFORE, considering that petitioner availed of the tax amnesty program on March 5, 2008 and has complied with the provisions of RA No. 9480, petitioner is entitled to immunities and privileges enumerated in Section 5 of RA No. 9480.

The amended Assessment for deficiency Income Tax in the amount of P99,875,608.00 for the taxable year 1992 is hereby **CANCELLED**. Accordingly, the case as considered **CLOSED** and **TERMINATED,** pursuant to the provisions of RA No. 9480.

Petitioner's **"Motion to Suspend Collection of Tax**" filed on January 17, 2008, is now rendered **MOOT**.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice