REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Third Division

MEDICARD PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9049

Members:

UY, *Chairperson*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
MAR 02 2023
10:00 a.m.

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JUDGMENT ON COMPROMISE AGREEMENT

RINGPIS-LIBAN, J.:

For resolution is the parties' "Joint Manifestation with Motion for Approval of Compromise Agreement"[1] filed on March 05, 2021 with the Court *En Banc* docketed as CTA EB No. 2158.

A narration of the facts is in order.

On May 15, 2015, a "Petition for Review"[2] was filed with this Court.

On July 12, 2018, a Resolution[3] was issued resolving the issue of prescription in the Petition for Review, declaring the Final Decision on Disputed Assessment dated April 11, 2015 as prescribed and cancelling the Formal Assessment Notice.

On January 22, 2019, a Resolution[4] was issued partially granting Respondent's "Motion for Reconsideration" and holding that Respondent's

[1] Rollo, pp. 191-194.
[2] Docket, pp. 12-29.
[3] *Id.*, pp. 994-1004.
[4] *Id.*, pp. 1066-1073.

assessments for deficiency value-added tax ("VAT") for the first and second quarters of taxable year 2007 were considered prescribed. However, Respondent's right to assess Petitioner for the deficiency VAT for the remaining quarters of taxable year 2007 was not barred by prescription. Thus, it was ordered that the trial on the third and fourth quarters of taxable year 2007 continue on March 05, 2019 for the determination of Petitioner's liability for the deficiency VAT assessment.

On September 12, 2019, a Resolution[5] was issued denying for lack of merit Petitioner's "Motion for Reconsideration [of the Resolution dated January 22, 2019]", which basically affirmed the Resolution dated January 22, 2019.

On October 30, 2019, Petitioner filed a "Petition for Review"[6] with the Court *En Banc* in CTA EB No. 2158, praying for the reversal of the Resolutions dated January 22, 2019 and September 12, 2019 and declaring that Respondent's right to assess Petitioner for any deficiency VAT for taxable year 2007 is already barred by prescription.

On October 05, 2020, a Resolution[7] was issued by the the Court *En Banc* submitting the "Petition for Review" for decision, and considering the receipt of No Agreement to Mediate (PMC-CTA Form 6), stating that the parties decided not to have the case mediated by the PMC-CTA.

On November 03, 2020, the parties filed a "Joint Manifestation and Motion (with Leave of Court to Defer Resolution in view of Offer of Compromise)"[8] praying the deferment of the resolution of the "Petition for Review" in view of the pending compromise settlement between the parties, which the Court *En Banc* denied in a Resolution[9] dated November 26, 2020.

Undaunted, the parties filed a "Joint Manifestation with Motion for Approval of Compromise Agreement"[10] on March 05, 2021, with attached notarized "Compromise Agreement", notarized "Secretary's Certificate", photocopy of Letter to BIR dated August 28, 2020 evidencing Petitioner's Offer of Compromise to Respondent, and photocopy of BIR Form No. 0605 (Payment Form) evidencing EFPS payment. The motion prays for the following:

1) approval of the Compromise Agreement executed jointly by the parties;

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5 *Id.*, pp. 1119-1127.
6 Rollo, pp. 26-52.
7 *Id.*, pp. 173-175.
8 *Id.*, pp. 176-180.
9 *Id.*, pp. 189-190.
10 *Id.*, pp. 191-194.

2) render judgment in accordance with the terms set forth in the Compromise Agreement; and

3) declaration of the instant case closed and terminated.

On May 24, 2021, a Resolution[11] was issued by the Court *En Banc* ordering the parties to submit within thirty (30) days from notice the following documents: (a) Original or certified true copy of the Certificate of Availment of Compromise; (b) Original or certified true copy of the National Evaluation Board ("NEB") approval of compromise; (c) Basis of Respondent's acceptance of compromise; and (d) Other relevant documents in support of the acceptance of compromise.

The parties were then given an additional period of thirty (30) days from July 03, 2021 or up to August 02, 2021 to submit the required documents.[12]

On November 17, 2021, a Decision[13] was promulgated by the Court *En Banc*, affirming the Resolutions dated January 22, 2019 and September 12, 2019 of this Court in CTA Case No. 9049.The Court *En Banc* then remanded the case to this Court for the determination of the merits of the assessments for the third and fourth quarters of taxable year 2007.

Thereafter on December 12, 2021, Petitioner filed a "Compliance"[14] with attached certified true copies of "Certificate of Availment" and signature page evidencing approval by the majority members of the NEB of the compromise settlement.

On March 10, 2022, a Resolution[15] was issued by the Court *En Banc* submitting for resolution the parties' "Joint Manifestation with Motion for Approval of Compromise Agreement".

Another Resolution[16] was then issued by the Court *En Banc* on April 21, 2022 concluding that the Court *En Banc* no longer has any jurisdiction over the case considering that the Decision dated November 17, 2021 has become final due to the parties' failure to appeal, thus the remand to this Court for the review and approval of the parties' Compromise Agreement.

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[11] *Id.*, pp. 173-175.
[12] *Id.*, Resolution dated October 07, 2021, pp. 229-231.
[13] *Id.*, pp. 233-246.
[14] *Id.*, pp. 260-263.
[15] *Id.*, pp. 173-175.
[16] *Id.*, pp. 173-175.

On December 15, 2022, a Resolution was erroneously issued by the Third Division ordering the parties to submit the original or certified true copy of BIR Form No. 0605 (Payment Form) evidencing EFPS payment of the compromise amount within fifteen (15) days from notice with no further extension. If the document is not filed within the given period, the Court shall continue with trial proceedings to determine the merits of the assessments for the third and fourth quarters of taxable year 2007.

In compliance Petitioner filed on January 17, 2023 a "Compliance [Resolution dated December 15, 2022]", submitting a certified true copy of BIR Form No. 0605 (Payment Form) with attached payment confirmation, evidencing payment of compromise amount, reiterating its "Joint Manifestation with Motion for Approval of Compromise Agreement" dated and filed March 05, 2021, and for judgment to rendered therewith.

On December 15, 2022, a Resolution was issued: (a) recalling and setting aside the December 15, 2022 Resolution which was erroneously acted upon by the Third Division, (b) noting Petitioner's "Compliance [Resolution dated December 15, 2022]", and (c) submitting the parties' "Joint Manifestation with Motion for Approval of Compromise Agreement" filed on March 05, 2021 for resolution.

We now resolve the parties' "Joint Manifestation with Motion for Approval of Compromise Agreement".

All in all, the parties submitted the following documents in support thereof:

1) a certified true copy of the Certificate of Availment No. CAC201700001170[17] dated November 08, 2021 signed by Manuel V. Mapoy, OIC-ACIR, Large Taxpayer's Service pertaining to the 2007 deficiency value-added tax ("VAT") assessment of Medicard Philippines, Inc., amounting to Php582,823,612.22;

2) a certified true copy of the approval by the majority of the composition of the National Evaluation Board (NEB)[18];

3) Compromise Agreement[19] dated January 28, 2021 duly signed by both parties and notarized on even date;

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[17] *Id.*, p. 264.
[18] *Id.*, p. 265.
[19] *Id.*, pp. 195-202.

4) Secretary's Certificate[20] showing the authority of Atty. Juan Andres S. Montoya to sign the Compromise Agreement on behalf of Respondent; and

5) A certified true copy of BIR Payment Form (BIR Form No. 0605) received by the Bureau of Internal Revenue on January 27, 2021 showing payment of Php48,764,130.00 compromise, in full satisfaction of the 2007 deficiency VAT assessment against Medicard Philippines, Inc.

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

> "**SEC. 204.** *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* –
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> The Commissioner may –
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> (A) Compromise the payment of any internal revenue tax, when:
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> (1) A reasonable doubt as to the validity of the claim against the taxpayer exists; or
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> (2) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.
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> The compromise settlement of any tax liability shall be subject to the following minimum amounts:
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> For cases of financial incapacity, a minimum compromise rate equivalent to ten percent (10%) of the basic assessed tax; and
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> For other cases, a minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.
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> Where the basic tax involved exceeds One million pesos ([Php]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."

[20] *Id.*, pp. 203-204.

Meanwhile, Section 6 of Revenue Regulations ("RR") No. 30-2002, as amended by RR No. 9-2013, the implementing regulation thereof, provides:

> "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.
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> xxx xxx xxx
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> *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.*"

The Compromise Agreement stipulates as follows:

> "**WHEREAS**, the **BIR** issued a Final Decision on Disputed Assessment dated April 10, 2014 ("FDDA") denying MEDICARD's protest to the Final Assessment Notice dated November 6, 2013 ("FAN") which assessed **MEDICARD** for alleged deficiency value-added tax ("VAT") amounting to [Php]538,374,679.68, inclusive of interest;
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> xxx xxx xxx
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> **WHEREAS, MEDICARD** filed a Petition for Review with the Honorable Court of Tax Appeals ("CTA"), docketed as CTA Case No. 9049, appealing the Decision and seeking the cancellation of the FAN and FDDA for lack of factual and legal basis;
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> **WHEREAS, MEDICARD** filed an Omnibus Motion on Janaury 18, 2016, which, among others, prayed that the CTA hold a preliminary hearing to resolve the issue of prescription which the Honorable Third Division granted on July 13, 2016. [*sic*]

WHEREAS, the CTA issued a Resolution dated July 12, 2018 ("Resolution") declaring that the Commissioner's right to assess **MEDICARD** for deficiency VAT for taxable year 2007 is barred by prescription. [*sic*]

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WHEREAS, the BIR sought reconsideration of the Resolution which the CTA partially granted on January 22, 2019 holding that the BIR's assessments for deficiency VAT for the first and second quarters of taxable year 2007 have prescribed. However, the BIR's rights to assess **MEDICARD** for deficiency VAT for the remaining quarters of taxable year 2007 is not yet barred by prescription ("Amended Resolution"). [*sic*]

WHEREAS, **MEDICARD** sought reconsideration of Amended Resolution which the CTA denied. [*sic*]

WHEREAS, **MEDICARD** appealed the Amended Resolution to the CTA *En Banc* via a Petition for Review seeking the cancellation of the deficiency assessment in the case entitled *"Medicard Philippines, Inc. v. Commissioner of Internal Revenue"* docketed as CTA EB Case No. 2158 (CTA Case No. 9049) which is still pending;

WHEREAS, in a letter dated August 28, 2020, **MEDICARD** submitted an Offer for Compromise signifying tis intention to enter into an amicable settlement with the **BIR** pursuant to the provisions of the Civil Code of the Philippines, jurisprudence and relevant provisions on compromise agreements;

WHEREAS, the **BIR** has evaluated **MEDICARD'S** proposal for amicable settlement and believes that a judicial compromise to allow immediate tax collection and to 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 laws, morals, public order and public policy;

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

WHEREAS, for the purpose of avoiding and putting an end to a protracted, expensive, and mutually prejudicial litigation, the **PARTIES** 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. Compromise Amount. In order to settle the above-mentioned case, **MEDICARD** has offered and the **BIR** has accepted the total compromise amount of **Forty Eight Million Seven Hundred Sixty Four Thousand One Hundred Thirty and 10/100 Pesos ([Php]48,764,130.10)**.

Section 2. Submission to the Honorable CTA. This Agreement fully signed by the **PARTIES** shall be submitted to the Honorable CTA in CTA EB Case No. 2158 and the **PARTIES** undertake to perform any and all acts, and to submit any and all documents required by the Honorable CTA to render a Judgment by Compromise Agreement in CTA EB Case No. 2158 (CTA Case No. 9049).

Section 3. Effectivity of the Agreement. This **Agreement** shall take affect after signing thereof by the **PARTIES**. 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. Upon approval by the **PARTIES** of the terms of this **Agreement, MEDICARD** undertakes to submit to the BIR proof of payment of the **Compromise Amount** and this **Agreement** duly signed by its authorized representative. Upon receipt of the **Compromise Amount**, BIR undertakes to execute and deliver to **MEDICARD** any and all documents as may be required to effectively and fully implement the provisions of this agreement, withdrawing and cancelling the FAN dated November 6, 2013 and the FDDA dated April 10, 2014.

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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. 2158 (CTA Case No. 9049). Upon performance by **MEDICARD** of its obligations under Section 4 hereof, the **BIR** recognizes the full satisfaction of the supposed tax liability, including any alleged deficiency interest, surcharge, and other penalties thereon, of **MEDICARD** in connection with CTA EB Case No. 2158 (CTA Case No. 9049) and acknowledges that **MEDICARD** no longer has any tax liability whatsoever based upon, arising from, or in connection with the particular subject of CTA EB Case No. 2158 (CTA Case No. 9049)."

On that note, the "Certificate of Availment (Compromise Settlement)" states that "the application/s for the compromise settlement of deficiency Value-Added Tax (VAT) tax/es amounting to Five Hundred Eighty Two Million Eight Hundred Twenty Three Thousand Six Hundred Twelve Pesos and 22/100 (₱582,823,612.22) under Assessment No/s. FDDA dated 04/11/2015 covering taxable year/period 2007 has/have been approved by the National Evaluation Board (NEB)." The compromise settlement of Php48,764,130.10 represents 20.25% of the basic deficiency VAT, and the compromise was made on the ground of doubtful validity. All the same, a majority of the NEB approved the offer of compromise in accordance with Section 204(A) of the NIRC of 1997, as amended.

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 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. It 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. A compromise agreement may be executed in and out of court. Once a compromise agreement is given judicial approval, however, 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.[21]

Finding the subject Compromise Agreement to be in order and in compliance with established laws, rules and regulations, taking into consideration the documents submitted by the parties in support thereof, the same is approved.

WHEREFORE, in view of the foregoing, the parties' "Joint Manifestation with Motion for Approval of Compromise Agreement" is **GRANTED**.

The Compromise Agreement is **APPROVED** and judgment is rendered in accordance therewith. The parties are **ENJOINED** to faithfully comply with all the terms and conditions of the Compromise Agreement. Accordingly,

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21 David M. David v. Federico M. Paragas, Jr., G.R. No. 176973, February 25, 2015.

the proceedings in the instant case is considered **CLOSED** and **TERMINATED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Judgment on Compromise Agreement were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

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 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