REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

THE PREMIER INSURANCE AND SURETY CORPORATION
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 6707

Members:

CASTAÑEDA, JR., Chairperson
UY, and
PALANCA-ENRIQUEZ, JJ.

Promulgated:

MAY 05 2009
3:28 p.m.

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RESOLUTION

PALANCA-ENRIQUEZ, J.:

This resolves:

1) Petitioner The Premier Insurance and Surety Corporation's "Motion for Reconsideration" of the Decision dated December 24, 2008, filed on January 20, 2009; and

2) Respondent Commissioner of Internal Revenue's "Opposition (Re: Motion for Reconsideration)", filed on February 12, 2009.

As regards petitioner's argument that it does not fall under *Section 222 of the NIRC of 1997, as amended,* prescribing a period of ten years to assess deficiency tax liabilities since its DST returns filed are not false, this issue had already been sufficiently passed upon and threshed out in the Decision dated December 24, 2008.

Anent petitioner's arguments on the findings of fraud, it bears emphasis that in Our Decision dated December 24, 2008, there was no mention of any fraudulent returns, but We limited Our findings to false returns and omission to file DST Declarations/Returns with respect to the 62.86% policies or P48,750,148.74 direct premiums written.

The above notwithstanding, however, the Court finds petitioner's newly raised issue on its availment of the Tax Amnesty Program under *RA 9480* on January 28, 2008 meritorious.

In the recent case of *Philippine Banking Corporation (now Global Business Bank, Inc. vs. Commissioner of Internal Revenue, G.R. No. 170574, February 9, 2009* (hereafter referred to as the "PBC Case"), the Supreme Court ruled that DST is one of the taxes covered by the Tax Amnesty Program under RA 9480.

The pertinent provisions of *RA 9480* read:

"Sec. 2. Availment of the Amnesty. – Any person, natural or juridical, who wishes to avail himself of the tax amnesty authorized and granted under this Act shall file with the Bureau of Internal Revenue (BIR) a notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005, in such form as may be prescribed in the implementing rules and regulations (IRR) of this Act, and pay the applicable amnesty tax within six months from the effectivity of the IRR.

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Sec. 6. Immunities and Privileges. Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:

1. The taxpayer shall be immune from the payment of taxes, as well as addition thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.

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Sec 8. Exceptions. The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act:

1. Withholding agents with respect to their withholding tax liabilities;

2. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;

3. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;

4. Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;

5. Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and

6. Tax cases subject of final and executory judgment by the court."

Corollary thereto, *Revenue Memorandum Circular No. 19-2008* prescribes the documents to be submitted by taxpayers who wish to avail of the Tax Amnesty Program under *RA 9480*, to wit:

1. Notice of Availment of Tax Amnesty;
2. Statement of Assets, Liabilities and Networth (SALN);
3. Tax Amnesty Return (BIR Form No. 2166); and
4. Payment Form (BIR Form No. 0617)

Section 6 of DOF Department Order No. 29-07, cited in the PBC Case, provides that "The Acceptance of Payment Form, the Notice of Availment, the SALN, and the Tax Amnesty Return shall be submitted to the RDO, which shall be received only after complete payment. The completion of these requirements shall be deemed full compliance with the provisions of RA 9480".

A perusal of petitioner's "Motion for Reconsideration" shows that petitioner submitted certified true copies of the following documentary evidence:

1) Notice of Availment of Tax Amnesty dated January 17, 2008, duly stamped received by the BIR on January 28, 2008;

2) Statement of Assets, Liabilities and Networth as of December 31, 2005, duly stamped received by the BIR on January 28, 2008, and Comparative Balance Sheets as of December 31, 2005 and 2004, duly stamped received by the BIR on May 16, 2006, and January 28, 2008;

3) Tax Amnesty Return (BIR Form No. 2116), duly stamped received by the BIR on January 28, 2008;

4) Duly accomplished Tax Amnesty Payment Form (BIR Form No. 0617), duly stamped received by the Authorized Agent Bank and the BIR on January 28, 2008; and

5) Tax Payment Deposit Slip of Land Bank of the Philippines dated January 28, 2008, duly stamped received by the BIR on the same date, showing that petitioner paid the amnesty tax in the amount of P543,903.95.

Considering that petitioner has fully complied with the aforesaid requirements of the Tax Amnesty Program under *RA 9480*, and considering further that petitioner is not one of the persons disqualified to avail said tax amnesty under *Section 8 of RA 9480*, the Court considers the completion of these requirements as full compliance with the provisions of *RA 9480.* Thus, petitioner shall be immune from the payment of the assessed deficiency Documentary Stamp Tax, pursuant to *Section 6 of RA 9480.* More so in this case, where the one (1) year period to initiate any proceeding to establish under-declaration of the SALN, having expired without any proceeding initiated by any party to overturn the presumption of correctness of petitioner's SALN, the amnesty granted to petitioner is now final and cannot be questioned in any proceeding involving tax deficiencies for taxable year 2005 and prior years.

WHEREFORE, premises considered, the instant case is hereby considered **CLOSED AND TERMINATED,** in view solely of petitioner's availment of the Tax Amnesty Program under RA 9480**.**

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice