REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Third Division

MAXICARE HEALTHCARE CORPORATION, Petitioner,	**CTA CASE NO. 8441 (CTA EB NOS. 1312 and 1317)**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson, and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated:
	SEP 13 2022 3:10 p.m.

x- x

JUDGEMENT ON COMPROMISE AGREEMENT

Before the Court are the following:

1. Parties' **Joint Omnibus Motion [For Approval of Judicial Compromise Agreement and Dismissal of the Case]** filed on May 17, 2021; and,

2. Petitioner's **Submission [Re: Original Copy of the Certificate of Availment] with Manifestation** filed on July 6, 2022.

To recall, on May 8, 2017, the Court *En Banc* in CTA EB NOS. 1312 and 1317 rendered a Decision[1] the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review filed by Maxicare in CTA EB Case No. 1312 is **DENIED** for lack of merit. The Petition for Review filed by the CIR in CTA EB Case No. 1317 is **GRANTED** in part.

[1] Docket (CTA EB NO. 1312), Vol. II, pp. 680-710.

The Amended Decision is hereby **REVERSED**. Maxicare is **ORDERED TO PAY** deficiency VAT liability in the aggregate amount of ₱200,149,302.69, inclusive of 25% surcharge as imposed under Section 248(A)(3) of the 1997 NIRC, as amended, computed as follows:

	1st Qtr-2008	2nd Qtr-2008	3rd Qtr-2008	4th Qtr-2008	Total
Cost to render service (Exempt sales per VAT returns)	₱ 330,063,761.96	₱ 247,386,731.43	₱ 376,254,627.49	₱ 572,012,745.55	₱1,525,717,866.43
Output tax due thereon	₱ 39,607,651.44	₱ 29,686,407.77	₱ 45,150,555.30	₱ 68,641,529.47	₱ 183,086,143.97
Less: Input tax attributable to Exempt Sales - now allowed as input tax	(5,214,412.86)	(5,209,895.00)	(5,402,589.96)	(7,139,804.00)	(22,966,701.82)
Basic deficiency VAT	**₱34,393,238.58**	**₱24,476,512.77**	**₱39,747,965.34**	**₱61,501,725.47**	**₱160,119,442.15**
Add: 25% Surcharge	8,598,309.64	6,119,128.19	9,936,991.33	15,375,431.37	40,029,860.54
Total Amount Due	**₱42,991,548.22**	**₱30,595,640.96**	**₱49,684,956.67**	**₱76,877,156.83**	**₱200,149,302.69**

In addition, Maxicare is **ORDERED TO PAY**:

(a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency VAT computed from the following dates until full payment thereof pursuant to Section 249(B) of the 1997 NIRC, as amended:

Period Covered	Basic Deficiency VAT	Reckoning Date
1st Quarter 2008	₱34,393,238.58	April 25, 2008
2nd Quarter 2008	₱24,476,512.77	Jul 25, 2008
3rd Quarter 2008	₱39,747,965.34	October 25, 2008
4th Quarter 2008	₱61,501,725.47	January 25, 2009

(b) Delinquency interest at the rate of twenty percent (20%) per annum on the total deficiency taxes of ₱200,149,302.69, representing basic deficiency VAT of ₱160,119,442.15 and 25% surcharge of ₱40,029,860.54, computed from April 30, 2012[2] until full payment thereof pursuant to Section 249(C)(3) of the 1997 NIRC, as amended.

SO ORDERED."

On December 12, 2017, upon petitioner's Motion for Reconsideration,[3] the Court *En Banc* in CTA EB NOS. 1312 and 1317 issued an Amended Decision[4] the dispositive portion of which reads:

[2] Exhibit L, Final Decision on Disputed Assessment, Maxicare's Formal Offer of Documentary Evidence, Division Docket Vol. 1, p. 496-497.
[3] Docket (CTA EB NO. 1312), Vol. II, pp. 768-829.
[4] Docket (CTA EB NO. 1312), Vol. II, pp. 836-848.

> "**WHEREFORE**, the **Motion for Reconsideration [of the Decision dated 8 May 2017]** filed by Maxicare Healthcare Corporation is **GRANTED**. Accordingly, the May 8, 2017 Decision of the Court *En Banc*, and the April 21, 2014 Decision and May 5, 2015 Amended Decision of the Court in Division are **SET ASIDE**. The case is **REMANDED** to the Court in Division for further proceedings.
>
> **SO ORDERED.**"

After the Court *En Banc* denied its Motion for Clarification [Re Amended Decision dated 12 December 2017],[5] petitioner consequently filed a Petition for Certiorari with the Supreme Court seeking to reverse the May 8, 2017 Decision, the December 12, 2017 Amended Decision and the July 16, 2018 Resolution of the Court *En Banc*.[6]

On March 13, 2019, the Supreme Court issued a Resolution *dismissing* the Petition for Certiorari in "G.R. No. 241855-56 (*Maxicare Healthcare Corporation vs. Court of Tax Appeals and Commissioner of Internal Revenue*) xxx for failure to sufficiently show that the questioned judgment is tainted with grave abuse of discretion".[7]

On July 15, 2019, the Supreme Court issued another Resolution *denying* petitioner's Motion for Reconsideration with finality and ordered the issuance of an Entry of Final Judgement.[8]

On April 28, 2021, the parties entered into a Judicial Compromise Agreement for the purpose of amicably settling and ending the case.[9]

On May 17, 2021, the parties filed their Joint Omnibus Motion [For Approval of Judicial Compromise Agreement and Dismissal of the Case] and informed the Court about the agreement.

In support of the motion, the parties submitted the following documents:

1. Original copy of the Judicial Compromise Agreement signed by petitioner's President and Chief Executive Officer, Christian S. Argos

---

[5] July 16, 2018 Resolution, Docket (CTA EB NO. 1312), Vol. II, pp. 901-913.
[6] Docket (CTA EB NO. 1312), Vol. III, pp. 914-959.
[7] Notice dated April 24, 2019, Docket (CTA EB NO. 1312), Volume III.
[8] Notice dated August 7, 2019, *Id.*
[9] Annex A, Joint Omnibus Motion [For Approval of Judicial Compromise Agreement and Dismissal of the Case] filed on May 17, 2021, Division Docket, Vol. 2.

and by respondent Commissioner of Internal Revenue (CIR), Caesar R. Dulay;[10]

2. Original copy of the Secretary's Certificate authorizing petitioner's President and Chief Executive Officer, Mr. Christian S. Argos, to enter into a compromise agreement;[11] and,

3. Original printout of Payment Form (BIR Form No. 0605) representing the payment of the compromise amount of Php75,240,426.66[12] for the basic deficiency Value-Added Tax of Php188,101,066.65[13] for calendar year 2008 and EFPS Payment Confirmation with Filing Reference No. 292100041271487.[14]

Specifically, the Judicial Compromise Agreement provides in pertinent parts:

> "**WHEREAS**, the **BIR** issued to the **TAXPAYER** a Formal Letter of Demand ("**FLD**") dated 17 May 2011 for the year 2008, which was received by the **TAXPAYER** on 18 MAY 2011, assessing the **TAXPAYER** basic deficiency value-added tax amounting to One Hundred Eighty-Eight Million One Hundred Thousand One Thousand Sixty-Six Pesos & 65/100 (PhP188,101,066.65);
>
> **WHEREAS**, the **TAXPYER** then filed with the **BIR** its Protest dated 17 June 2011 disputing the **FLD** dated 17 May 2011;
>
> **WHEREAS**, the **BIR** issued a **FINAL DECISION ON DISPUTED ASSESSMENT** ("**FDDA**") dated 27 March 2012, which denied the Protest filed by the **TAXPAYER**;
>
> **WHEREAS**, the **TAXPAYER** instituted an action against the **BIR** entitled "***Maxicare Healthcare Corporation vs. Commissioner of Internal Revenue***" docketed as CTA Case No. 8441, pending before the Honorable Third Division of the Court of Tax Appeals ("**CTA**"), seeking the reversal of the **FDDA** and cancellation of the **FLD**;
>
> **WHEREAS**, the **TAXPAYER** has submitted to the **BIR** a **Proposal for Amicable Settlement** dated 03 March 2021 for the alleged deficiency tax assessment contained in the **FLD** and **FDDA**;

---

[10] *Id.*
[11] *Id.*
[12] Annex B, Joint Omnibus Motion [For Approval of Judicial Compromise Agreement and Dismissal of the Case] filed on May 17, 2021, *Id.*
[13] Judicial Compromise Agreement notarized on April 22, 2021, First Whereas clause, p. 1., Annex A, Joint Omnibus Motion [For Approval of Judicial Compromise Agreement and Dismissal of the Case] filed on May 17, 2021, *Id.*
[14] Annex B, *Id.*

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

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

WHEREAS, the **PARTIES**, for the purpose of avoiding and putting an end to a protracted, expensive and mutually prejudicial litigation, 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. Judicial Compromise Amount. In order to settle the above-mentioned case, the **TAXPAYER**, has offered and the **BIR** has accepted the total payment of **Seventy-Five Million, Two Hundred Forty Thousand and Four Hundred and Twenty-Six & 66/100 Pesos (PhP75,240,426.66) ["Judicial Compromise Amount"].**

Section 2. Submission to the Honorable CTA. This Agreement fully signed by the **PARTIES** shall be submitted for the approval of the Honorable CTA in CTA EB Case Nos. 8441. The **PARTIES** undertake to perform any and all acts, and submit any and all documents required by the Honorable CTA to be able to render a **Judgment by Compromise Agreement** in the said case.

Section 3. Effectivity of the Agreement. This **Agreement** shall take affect and bind the **PARTIES** upon approval by the honorable CTA. This **Agreement** shall thereafter remain in force and effect until completion and fulfillment of the covenants and undertaking of the **PARTIES** hereto.

xxx xxx xxx

Section 5. Authority to Enter Compromise Agreement. The **BIR**, through Commissioner Caesar R. Dulay warrants that he has the necessary authority and capacity under the law to enter, sign, and execute this **Agreement**, and to deliver its implementing documents upon its approval of the Honorable CTA.

The **TAXPAYER** warrants that its President and Chief Executive Officer, Mr. Christian S. Argos is duly authorized by the Board of Directors of the **TAXPAYER** and has full legal capacity to enter, sign, and execute this Agreement, and to deliver payment of the above-agreed additional amount.

Section 6. Full and Final Settlement. This **Agreement** is executed by the **PARTIES** for the purpose of amicably settling and ending CTA Case No. 8441. Upon approval by the Honorable CTA, the **BIR** recognizes the full satisfaction of the supposed tax liability of the **TAXPAYER** in connection with CTA Case No. 8441 and acknowledges that the **TAXPAYER** no longer has any tax liability whatsoever based upon, arising from or in connection with the particular subject of CTA Case No. 8441.

xxx xxx xxx

IN WITNESS WHEREF, the **PARTIES** hereto have mutually and voluntarily agreed to the foregoing stipulations and have hereunto signed these presents at the date and place indicated above.

MAXICARE HEALTHCARE CORPORATION	**BUREAU OF INTERNAL REVENUE**
By:	By:
(signed) CHRISTIAN S. ARGOS President and Chief Executive Officer	(signed) CEASAR R. DULAY Commissioner

xxx xxx xxx" (*Underscoring supplied*)

On July 8, 2021, the Court issued a Resolution requiring the parties to submit within fifteen (15) days from receipt, the original or certified true copy of the Certificate of Availment showing approval of the Compromise Agreement by the majority of the members of National Evaluation Board (NEB), and holding in abeyance the resolution of the Joint Omnibus Motion [For Approval of Judicial Compromise Agreement and Dismissal of the Case].

On July 6, 2022, petitioner filed its Submission [Re: Original Copy of the Certificate of Availment] with Manifestation, stating the following:

"xxx xxx xxx

3. xxx petitioner personally coordinated with respondent Commissioner of Internal Revenue (CIR) to request the issuance of the Certificate of Availment. Acting on petitioner's request, respondent CIR processed the issuance of the Certificate of Availment and undertook to furnish petitioner with the same once available.

4. On July 1, 2022, counsel for respondent CIR gave petitioner's counsel the original copy of the Certificate of Availment.

5. Petitioner respectfully apologizes to the Honorable Court for the delay in the submission of the Certificate of Availment which was issued only on June 29, 2022.

6. In compliance with the Honorable Court's directive, petitioner is submitting herewith the attached *original copy* of the *Certificate of Availment* as ***Annex "A"***.

xxx xxx xxx."

The Court resolves below.

Section 204 of the National Internal Revenue Code (NIRC), as amended, expressly gives the CIR authority to *compromise*, abate and refund or credit taxes:

> "**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.
>
> <u>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</u>." (*Underscoring supplied*)

In this case, the Court notes that the judicial compromise amount *exceeds* the threshold set by Section 204(A) of the NIRC, as amended, because the Php75,240,426.66 paid by the taxpayer is *forty-seven percent (47%)* of Php160,058,740.44 representing petitioner's basic deficiency Value-Added Tax.[15]

Furthermore, the original copy of the Certificate of Availment dated June 29, 2022 states that the application for compromise settlement of the deficiency Value-Added Taxes "under Assessment No./s: FDDA dated March 27, 2012 covering taxable year/period 2008 has/have been approved by the National Evaluation Board (NEB)."

A compromise agreement is a contract whereby the parties make reciprocal concessions in order to resolve their differences and, thus, avoid or

[15] April 21, 2014 Decision, (CTA EB NO. 1312), Volume I, p. 70.

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.[16]

Recently, in *Kepco Philippines Corporation v. Commissioner of Internal Revenue*,[17] a tax assessment case where the Office of Solicitor General opposed the taxpayer's Motion to Render Judgment on the Case Based on the Parties' Compromise Settlement under Section 204(A) of the National Internal Revenue Code, the Supreme Court recognized and upheld the CIR's power and authority to enter into compromise agreements, which is *purely discretionary* and *cannot be questioned absent grave abuse of discretion*, thus:

> "The OSG avers that the compromise agreement is not valid because *first*, it failed to allege and prove any of the grounds for a valid compromise under Section 3 of Revenue Regulations (RR) No. 30-2002; *second*, the CTA did not yet issue any adverse Decision against Kepco, hence, there is no 'doubtful validity' to speak of as a ground for a valid compromise pursuant to Section 2 of RR No. 8-2004; and *third*, Kepco did not pay in full the compromise amount upon filing of the application in violation of Section 2 of RR No. 9-2013. The OSG posits that the CIR improperly arrogated unto himself the power of the NEB to decide on the offer of compromise when the CIR accepted Kepco's additional payment of P16,661,759.20 before the NEB could approve or reject Kepco's original application.
>
> xxx xxx xxx
>
> **Ruling**
>
> There is no dispute that Kepco entered into a compromise agreement with the CIR on its deficiency taxes for TY 2006, and the CIR issued Certificate of Availment on December 11, 2017. On this basis, the deficiency tax assessment subject of the Petition can now be considered closed and terminated. However, the OSG opposed the motion and questioned the validity of the compromise alleging irregularity in the procedure that led to its approval.
>
> <u>We grant the motion and rule in favor of the compromise.</u>
>
> <u>The power of the CIR to enter into compromise agreements for deficiency taxes is explicit in Section 204 (A) of the 1997 National Internal Revenue Code, as amended (1997 NIRC). The CIR may compromise an assessment when a reasonable doubt as to the validity of the claim against the</u>

---

16 *David M. David v. Federico M. Paragas, Jr.*, G.R. No. 176973, February 25, 2015.
17 G.R. No. 225750-51, July 28, 2020.

> taxpayer exists, or the financial position of the taxpayer demonstrates a clear inability to pay the tax.
>
> xxx xxx xxx
>
> As to whether the CIR properly accepted Kepco's offer for a compromise because 'the assessment is lacking in legal and/or factual basis,' the general rule is that the authority of the CIR to compromise is purely discretionary and the courts cannot interfere with his exercise of discretionary functions, absent grave abuse of discretion. Here, no grave abuse of discretion exists. Kepco complied with the procedures prescribed under the BIR rules on the application and approval of compromise settlement on the ground of doubtful validity." (*Underscoring supplied*)

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, petitioner's Submission [Re: Original Copy of the Certificate of Availment] is **NOTED**.

The parties' Joint Omnibus Motion [For Approval of Judicial Compromise Agreement and Dismissal of the Case] is **GRANTED**.

Finally, the Judicial Compromise Agreement is **APPROVED** and judgment is hereby rendered in accordance therewith. Accordingly, the proceedings in the instant case are considered **CLOSED** and **TERMINATED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
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's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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