REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

APO CEMENT CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 256
(CTA Case No. 6710)

Members:
ACOSTA, P.J.,
CASTAÑEDA JR.,
BAUTISTA,
UY,
CASANOVA, and
PALANCA-ENRIQUEZ, JJ.

Promulgated:
FEB 1 2 2009 3:50 p.m.

X- X

RESOLUTION

This resolves petitioner's **"Second Supplemental Memorandum"** filed on April 14, 2008; respondent's **"Comment/Opposition"** filed on June 6, 2008; and petitioner's **"Reply (To Comment/Opposition)"** filed on September 9, 2008.

Records disclose that petitioner has manifested its availment of respondent-BIR's Tax Amnesty Program in its "Extremely Urgent Motion to Suspend and Enjoin Collection of Taxes (With Prayer for Immediate Ex Parte Issuance of Temporary Restraining Order and Motion for Special Raffle)".

Petitioner reiterated said manifestation in its "Second Supplemental Memorandum" filed on April 14, 2008. Copies of the following documents were attached to the said Second Supplemental Memorandum: a) Notice of Availment of Tax Amnesty *(Exhibit "B")*[1]; b) Tax Amnesty Payment Form/Acceptance of Payment Form *(Exhibit "C")*[2]; c) Tax Amnesty Return *(Exhibit "D")*[3]; d) Statement of Assets, Liabilities and Networth (SALN) *(Exhibit "E")*[4]; e) BIR tax payment deposit slip (DBP) showing payment of Php3,668,951,.06 *(Exhibit "H")*[5].

During the scheduled Commissioner's hearing on November 26, 2008 for the due identification, authentication and marking of petitioner's tax amnesty documents, results of comparison by Atty. Elvessa P. Apolinario, Executive Clerk of Court IV, showed that Exhibits "B", "C", "D", "E", "H", and their respective sub-annexes were all faithful reproductions of their originals[6].

On January 30, 2009, petitioner filed a "Motion for Leave to Admit Attached Motion for Early Resolution"[7]. Said motion, is hereby **GRANTED**. However, the attached Motion for Early Resolution[8] is hereby rendered MOOT and **ACADEMIC** considering that the instant case has been submitted for decision as per Resolution[9] dated October 14, 2008.

Considering that the proper remedy of petitioner is to file a motion to withdraw the petition, the Court *En Banc* shall accordingly treat petitioner's "Second Supplemental Memorandum" as a motion to withdraw the petition.

After carefully evaluating the documents submitted, the Court En *Banc* is convinced that petitioner duly complied with the requirements of the Tax Amnesty Program, especially considering that the one (1) year period within which the Tax Amnesty availed of may be questioned has already lapsed. The effect thereof is stated under Section 6 (a) of the law, *viz:*

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[1] CTA En Banc Rollo, p. 380.
[2] CTA En Banc Rollo, p. 381.
[3] CTA En Banc Rollo, p. 382.
[4] CTA En Banc Rollo, p. 383.
[5] CTA En Banc Rollo, p. 848.
[6] COMMISSIONER'S REPORT, CTA En Banc Rollo, pp. 850-852.
[7] CTA En Banc Rollo, pp. 853-855.
[8] CTA En Banc Rollo, pp. 857-862.
[9] CTA En Banc Rollo, pp. 842-843.

"Section 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:

(a) The taxpayer shall be immune from the payment of taxes as well as additions 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."

IN VIEW OF THE FOREGOING, petitioner's "Petition for Review" filed on February 9, 2007 is deemed **WITHDRAWN**, and the afore-entitled case is considered **CLOSED** and **TERMINATED**.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice