REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

LIFEBANK FOUNDATION, INC., Petitioner,	**CTA EB NO. 1727** **(CTA Case No. 8836)**
	Present:
-versus-	DEL ROSARIO, *P.J.,* CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, *and* MODESTO-SAN PEDRO, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 02 2021 4:17 p.m.

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JUDGEMENT BASED ON COMPROMISE AGREEMENT

CASTAÑEDA, JR., *J.*:

For the Court's resolution are the following incidents:

1. Joint Manifestation with Motion for Judgment Based on Compromise Agreement filed by both parties on March 13, 2020 praying for the approval of the attached *original* copy of the Judicial Compromise Agreement notarized on February 6, 2020;[1]

2. Manifestation [of Change in Partnership Name of Petitioner's Counsel] filed on October 30, 2020;[2]

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[1] *Rollo*, Vol. 2, pp. 674-689.
[2] *Id.* at pp. 705-709.

3. Compliance filed by respondent Commissioner of Internal Revenue (CIR) on December 9, 2020 submitting a certified true copy of the Certificate of Availment showing that the compromise agreement on the deficiency tax assessments for taxable year 2009 was approved by the National Evaluation Board (NEB);[3] and,

4. Manifestation [of Change of Petitioner's Name to Lifebank Microfinance Foundation, Inc.] filed on December 22, 2020.[4]

THE FACTS

In its January 9, 2020 Resolution,[5] the Court noted petitioner's submission of the following documents relative to the Judicial Compromise Agreement executed by the parties:

1. Letter dated February 16, 2014 in connection with the petitioner's application for compromise for the 2009 deficiency tax assessment filed with Bureau of Internal Revenue (BIR), Revenue Region No. 11 -Iloilo City;[6]

2. Payment Form (BIR Form 0605) with machine validation stamp dated February 10, 2014 for the deficiency income tax in the amount of ₱30,900,458.52 representing compromise settlement of 40% basic tax assessed under Revenue Regulation No. (RR) 30-2002;[7]

3. Chinabank BTr-BIR Deposit Slip dated February 10, 2014 for the amount of ₱30,900,458.52;[8]

4. Payment Form (BIR Form 0605) with BIR Revenue District No. (RDO) No. 74 received stamp dated February 10, 2014 for the deficiency value-added tax in the amount of ₱28,043,997.26 representing compromise settlement of 40% basic tax assessed under RR 30-2002;[9]

5. Certification dated November 25, 2019 from BIR RDO 74 of Iloilo City stating that the amount of ₱28,043,997.26 was collected and was not included in the list of dishonored checks per verification in the Revenue Data Center – Visayas database;[10] gc

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[3] *Id.* at pp. 736-739.
[4] *Id.* at 721-733.
[5] *Id.* at pp. 663-673.
[6] *Id.* at pp. 611-624.
[7] *Id.* at pp. 625-626.
[8] *Id.* at p. 627.
[9] *Id.* at pp. 628-629.
[10] *Id.* at p. 630.

6. Revenue Official Receipt (BIR Form No. 2524) dated February 10, 2014 for the payment of BDO Check in the amount of ₱28,043,997.26 representing compromise settlement under RR 30-2002;[11]

7. Letter dated September 25, 2019 filed by petitioner's counsel Angara Abello Concepcion Regala & Cruz Law Offices (ACCRALAW) in connection with the offer of compromise of the disputed tax assessments pending with the CTA under CTA EB No. 1727;[12]

8. Verification of Mr. Vicente P. Perlas, President of petitioner in connection with the allegations stated in the Joint Manifestation [With Leave of Court to Defer Resolution in View of Offer of Compromise] and in the Motion for Reconsideration [of the Resolution dated November 6, 2019];[13] and,

9. Secretary's Certificate dated November 25, 2019 on the board resolutions granting authority both to Mr. Vicente P. Perlas and ACCRALAW to represent the petitioner in the compromise pursuant to BIR Memorandum dated May 15, 2017 and Section 204(A) of the NIRC;[14]

In a Joint Manifestation with Motion for Judgment Based on Compromise Agreement filed by both parties on March 13, 2020, the parties manifested that they executed a Judicial Compromise Agreement for the purpose of amicably settling the tax assessment subject of the instant case. Furthermore, the parties manifested that petitioner paid the additional compromise amount of ₱51,576,398.82. The following documents were also submitted to the Court:

1. Original copy of the Judicial Compromise Agreement notarized on February 6, 2020;[15]

2. eFPS Payment Form (BIR Form 0605) filed with BIR Revenue District No. (RDO) No. 123 on February 7, 2020 in the amount of ₱24,538,497.61 representing *additional* compromise payment of basic VAT assessed;[16]

3. eFPS Payment Acknowledgement Receipt dated February 7, 2020 for the amount of ₱24,538,497.61 representing payment of VAT;[17]

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[11] *Id.* at p. 631.
[12] *Id.* at pp. 632-655.
[13] *Id.* at pp. 656-657.
[14] *Id.* at pp. 658-660.
[15] *Id.* at pp. 678-683.
[16] *Id.* at pp. 684-685.
[17] *Id.* at p. 686.

4. eFPS Payment Form (BIR Form 0605) filed with BIR Revenue District No. (RDO) No. 123 on February 7, 2020 in the amount of ₱27,037,901.21 representing *additional* compromise payment of basic income tax assessed for TY 2009;[18] and,

5. eFPS Payment Acknowledgement Receipt dated February 7, 2020 for the amount of ₱27,037,901.21 representing payment of income tax for TY 2009;[19]

To facilitate reference, the Judicial Compromise Agreement[20] is quoted in full below:

"JUDICIAL COMPROMISE AGREEMENT

KNOWN ALL MEN BY THESE PRESENTS:

This **JUDICIAL COMPROMISE AGREEMENT ("Agreement"),** made and executed, by and between:

LIFEBANK FOUNDATION, INC. ("LIFEBANK"), a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal address at Gov. Fermin Caram St. Brgy. Maria Clara, Iloilo City, represented by its President, **MR. VICENTE P. PERLAS**;

-and-

The **BUREAU OF INTERNAL REVENUE ("BIR")**, with principal office at Bureau of Internal Revenue, National Office Building, Agham Road, Diliman, Quezon City, represented by the Commissioner, **HON. CAESAR R. DULAY** (collectively, the "**PARTIES**");

-Witnesseth That-

WHEREAS, the BIR issued a Formal Letter of Demand ("FLD") with an attached Final Assessment Notice ("FAN") against Lifebank dated 25 April 2013 for taxable year 2009, assessing Lifebank of alleged deficiency taxes amounting to **PhP282,055,951.22**;

WHEREAS, Lifebank received a Final Notice Before Seizure ("FNBS") on 16 January 2014 from BIR, reiterating its assessed tax liabilities set forth in the FLD/FAN;

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[18] *Id.* at pp. 687-688.
[19] *Id.* at p. 689.
[20] *Id.* at pp. 678-683.

WHEREAS, on 16 February 2014, Lifebank filed an application for Compromise Agreement with Revenue Region No. 11 for the alleged deficiency tax assessment contained in the FLD on the ground of doubtful validity of the deficiency assessment with Lifebank paying the amount of Fifty Eight Million Nine Hundred Forty Four Thousand Four Hundred Fifty Five and 78/100 Pesos **(Php58,944,455.78)**, or the "**Initial Compromise Amount**", equivalent to forty percent (40%) of the basic deficiency tax;

WHEREAS, on 4 March 2014 Lifebank filed its Protest to the FNBS, which was denied by Revenue District Office No. 74 through a Letter-Reply;

WHEREAS, on 16 June 2014, Lifebank filed a Petition for Review with the Court of Tax Appeals (CTA) to appeal the Letter-Reply for lack of factual and legal basis. Lifebank's Petition was denied by the CTA Third Division on 23 June 2017, prompting Lifebank to file a Motion for Reconsideration, which was also duly denied by the CTA Third Division on 3 October 2017;

WHEREAS, Lifebank instituted an action against the BIR before the Court of Tax Appeals En Ban ("CTA"), seeking the cancellation of the deficiency assessment entitled "*Lifebank Foundation, Inc. vs. Commissioner of Internal Revenue*" ("En Banc Case"), docketed as CTA EB Case No. 1727.

WHEREAS, pending resolution of the En Banc Case, Lifebank submitted an **Offer of Compromise** for the alleged deficiency tax assessment contained in the FLD;

WHEREAS, the BIR has evaluated Lifebank's proposal for amicable settlement, and believes that a judicial compromise to allow immediate tax collection and 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 compromise 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. Additional Compromise Amount. In order to settle the above-mentioned case, Lifebank has offered and the **BIR** has accepted the additional amount equivalent to thirty five percent (35%) of the assessed basic deficiency taxes in the FLD, resulting in the **Total Compromise**

Amount of One Hundred Ten Million Five Hundred Twenty Thousand Eight Hundred Fifty Four and 60/100 Pesos (Php110,520,854.60).

This amount includes the **Initial Compromise Amount of Fifty Eight Million Nine Hundred Forty Four Thousand Four Hundred Fifty Five and 78/100 Pesos (PhP58,944,455.78)**, previously paid to the BIR and receipt of which is duly acknowledged and the **additional** compromise amount of **Fifty One Million Five Hundred Seventy Six Thousand Three Hundred Ninety Eight and 82/100 (Php51,576,398.82).**

Section 2. Submission to the Honorable CTA. This Agreement fully signed by the Parties shall be submitted for the approval of the Honorable CTA. The Parties undertake to perform any and all acts, and submit any and all documents required by the Honorable CTA to render a Judgment by Compromise Agreement in CTA EB No. 1727.

Section 3. Effectivity of the Agreement. This Agreement shall take effect 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.

Section 4. Deliverables of the PARTIES upon approval of this Agreement by the Honorable CTA. Upon final approval by the Honorable CTA of this Agreement, the BIR undertakes to execute and deliver to Lifebank any and all documents as may be required to effectively and fully implement the provisions of this Agreement, withdrawing and cancelling the FLD with attached FAN dated 25 April 2013.

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.

Lifebank warrants that Mr. Vicente P. Perlas, is duly authorized by its Board of Directors and has full legal capacity to enter, sign, and execute this Agreement, and to deliver payment of the Judicial Compromise Amount.

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. 1727. Upon approval by the Court, the BIR recognizes the full satisfaction of the supposed tax liability of Lifebank in connection with CTA EB Case No. 1727 and acknowledges that the Lifebank no longer has any tax liability whatsoever based upon, arising from or in connection with the particular subject of CTA EB Case No. 1727.

Section 7. Disapproval of this Agreement by the Honorable CTA. In the event that this Agreement is disapproved by the Honorable CTA, the Parties agree to a curing period of sixty (60) days from receipt of the Order/Resolution disapproving this Agreement. During such curing period, the Parties mutually agree to perform any and all acts necessary to rectify or correct the deficiency, defect or imperfection which caused its disapproval, and re-submit the rectified or corrected Agreement for approval of the Honorable CTA. However, in case the deficiency, defect or imperfection is not or cannot be rectified or corrected within the said curing period, or still not approved by the Honorable CTA after it is rectified or corrected by the parties:

1. The amount already paid by Lifebank to the BIR shall be deemed a tax credit which may be applied against internal revenue taxes for which the **TAXPAYER** may be directly liable, as allowed under existing rules and regulations; and

2. The proceedings of CTA Case EB No. 1727 shall continue and the discussions pursuant to the disapproved Agreement cannot be used by the **PARTIES** in said proceeding unless consent of the other party be obtained.

Section 8. No Admission of Liability. The execution of this Agreement shall not constitute or be interpreted in any way as an admission or acknowledgement of error or liability by the Parties.

Section 9. Non-Performance. The **PARTIES** agree that the failure of any party to comply with any of the terms and conditions of this Agreement shall entitle the aggrieved Party to file an appropriate motion with the Honorable CTA for the immediate implementation and execution of the terms and conditions of this Agreement of the judgment or order of the Honorable CTA approving the same.

Section 10. Signatures and Counterparts. This Agreement may be signed in counterparts, each of which when executed and delivered shall constitute a duplicate original, but all of which shall be taken together as a single instrument. Until and unless each party has received a counterpart hereof signed by the other party hereto, the Agreement shall have no effect and no party shall have any right or obligation hereunder.

IN WITNESS WHEREOF, 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.

LIFEBANK FOUNDATION, INC.

By:

[signed]
VICENTE PERLAS
President

BUREAU OF INTERNAL REVENUE

By:

[signed]
HON. CAESAR R. DULAY
Commissioner

In its July 21, 2020 Resolution,[21] the Court summarized the payments made by petitioner based on the documents submitted to the Court, thus:

[21] *Id.* at pp. 691-693.

February 16, 2014 Compromise (Rollo, Vol. 1, pp. 550-561)

Tax Type	Basic Tax	Compromise Payments	Percentage of Basic Tax
Income Tax	₱ 77,251,146.30	₱ 30,900,458.52	40%
Value-Added Tax	₱ 70,109,993.16	₱ 28,043,997.26	40%
Total	**₱ 147,361,139.46**	**₱ 58,944,455.78**	**40%**

September 25, 2019 Compromise (Rollo, Vol. 2, pp. 632-634)

Income Tax	₱ 77,251,146.30	₱ 27,037,901.21	
Value-Added Tax	₱ 70,109,993.16	₱ 24,538,497.61	
Total	**₱ 147,361,139.46**	**₱ 51,576,398.82**	**35%**
Total Compromise Payment		**₱ 110,520,854.60**	**75%**

In the same resolution, however, the Court ordered the parties to submit proof of the National Evaluation Board (NEB) approval and the Certificate of Availment.

Subsequently, after extensions were granted by the Court, respondent CIR filed a Compliance on December 9, 2020 submitting a certified true copy of the Certificate of Availment showing that the compromise agreement on the deficiency tax assessments for taxable year 2009 was approved by the NEB.[22]

THE COURT'S RULING

Article 2028 of the Civil Code of the Philippines defines a compromise agreement as "a contract whereby the parties make reciprocal concessions, avoid litigation, or put an end to one already commenced." In contracts, contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided that these are not contrary to law, morals, good customs, public order, or policy.[23]

The Supreme Court explained that a compromise agreement is an accepted, even desirable and encouraged, practice in courts of law and administrative tribunals. A compromise agreement intended to resolve a matter already under litigation is a judicial compromise.[24]

However, having judicial mandate and entered as its determination of the controversy, a compromise agreement has the force and effect of a judgment. It transcends its identity as a *mere* contract between the parties as

[22] *Id.* at pp. 736-739.
[23] Article 1306, Civil Code.
[24] *California Manufacturing Company, Inc. v. The City of Las Piñas and the Hon. Rizal Y. Del Rosario, City Treasurer*, G.R. No. 178461, June 22, 2009.

it becomes a judgment that is subject to execution in accordance with the Rules of Court. Thus, a compromise agreement that has been made and duly approved by the court attains the effect and authority of *res judicata*, although no execution may be issued unless the agreement receives the approval of the court where the litigation is pending and compliance with the terms of the agreement is decreed.[25]

Sections 7(c) and 204(A) of the National Internal Revenue Code of 1997 (NIRC) expressly authorize the CIR to compromise taxes under specific conditions:

> "**SEC. 7.** *Authority of the Commissioner to Delegate Power.* — The Commissioner may delegate the powers vested in him under the pertinent provisions of this Code to any or such subordinate officials with the rank equivalent to a division chief or higher, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner: *Provided, however*, That the following powers of the Commissioner shall not be delegated:
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> xxx xxx xxx
>
> (c) The power to compromise or abate, under Sec. 204(A) and (B) of this Code, any tax liability: *Provided, however*, That the assessments issued by the regional offices involving basic deficiency taxes of Five hundred thousand pesos (P500,000) or less, and minor criminal violations, as may be determined by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner, discovered by regional and district officials, may be compromised by a regional evaluation board which shall be composed of the Regional Director as Chairman, the Assistant Regional Director, the heads of the Legal, Assessment and Collection Divisions and the Revenue District Officer having jurisdiction over the taxpayer, as members; and
>
> xxx xxx xxx.
>
> **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.
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> The compromise settlement of any tax liability shall be subject to the following minimum amounts:

[25] *Id.*

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.

Where the basic tax involved exceeds One million pesos (P1,000,000) 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."

Based on these provisions, there are two grounds for compromise subject to their respective conditions:

Grounds	Compromise Rate	Approving Authority
Financial Incapacity	10% of Basic Tax Assessed	Evaluation Board, composed of the CIR and the four (4) Deputy Commissioners, if the basic tax assessed exceeds ₱1 Million or the settlement offered is less than the prescribed minimum
Other Cases	40% of Basic Tax Assessed	Evaluation Board, composed of the CIR and the four (4) Deputy Commissioners, if the basic tax assessed exceeds ₱1 Million or the settlement offered is less than the prescribed minimum

Respondent issued Revenue Regulations No. (RR) 30-2002, as amended by RR 8-2004 and 9-2013, to implement Sections 7(c) and 204(A) of the NIRC. Section 2 of RR 30-2002, as amended, enumerates in detail the cases that may be subject of compromise:

"SECTION 2. *Cases which may be Compromised.* — The following cases may, upon taxpayer's compliance with the basis set forth under Section 3 of these Regulations, be the subject matter of compromise settlement, viz.:

1. Delinquent accounts;

2. Cases under administrative protest *after issuance of the Final Assessment Notice to the taxpayer which are still pending* in the Regional Offices, Revenue District Offices,

Legal Service, Large Taxpayer Service (LTS), Collection Service, Enforcement Service and other offices in the National Office;

3. Civil tax cases being disputed before the courts;

4. Collection cases filed in courts;

5. Criminal violations, other than those already filed in court or those involving criminal tax fraud.

EXCEPTIONS:

1. Withholding tax cases, *unless the applicant-taxpayer invokes provisions of law that cast doubt on the taxpayer's obligation to withhold*;

2. Criminal tax fraud cases *confirmed as such by the Commissioner of Internal Revenue or his duly authorized representative*;

3. Criminal violations already filed in court;

4. Delinquent accounts with duly approved schedule of installment payments;

5. Cases where final reports of reinvestigation or reconsideration have been issued resulting to reduction in the original assessment and the taxpayer is agreeable to such decision *by signing the required agreement form for the purpose*. On the other hand, other protested cases shall be handled by the Regional Evaluation Board (REB) or the National Evaluation Board (NEB) on a case to case basis;

6. Cases which become final and executory after final judgment of a court, *where compromise is requested on the ground of doubtful validity of the assessment*; *and*

7. *Estate tax cases where compromise is requested on the ground of financial incapacity of the taxpayer*."

In addition, Section 3 of RR 30-2002, as amended, enumerates the basis for acceptance of compromise settlements, thus:

"SECTION 3. *Basis for Acceptance of Compromise Settlement*. — The Commissioner may compromise the payment of any internal revenue tax on the following grounds:

1. *Doubtful validity of the assessment*. — The offer to compromise a delinquent account or disputed assessment under these Regulations on the ground of reasonable doubt as to the validity of the assessment may be accepted when it is shown that:

(a) The delinquent account or disputed assessment is one resulting from a jeopardy assessment (For this purpose, '*jeopardy assessment*' shall refer to a tax assessment which was assessed without the benefit of complete or partial audit by an authorized revenue officer, who has reason to believe that the assessment and collection of a deficiency tax will be jeopardized by delay because of the taxpayer's failure to comply with the audit and investigation requirements to present his books of accounts and/or pertinent records, or to substantiate all or any of the deductions, exemptions, or credits claimed in his return); or

(b) The assessment seems to be arbitrary in nature, appearing to be based on presumptions and there is reason to believe that it is looking in legal and/or factual basis; or

(c) The taxpayer failed to file an administrative protest on account of the alleged failure to receive notice of assessment and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(d) The taxpayer failed to file a request for reinvestigation/reconsideration within 30 days from receipt of final assessment notice and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(e) The taxpayer failed to elevate to the Court of Tax Appeals (CTA) an adverse decision of the Commissioner, or his authorized representative, in some cases, within 30 days from receipt thereof and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(f) The assessments were issued on or after January 1, 1998, where the demand notice allegedly failed to comply with the formalities prescribed under Sec. 228 of the National Internal Revenue Code of 1997; or

(g) Assessments made based on the "Best Evidence Obtainable Rule" and there is reason to believe that the same can be disputed by sufficient and competent evidence; or

(h) The assessment was issued within the prescriptive period for assessment as extended by the taxpayer's execution of Waiver of the Statute of Limitations the validity or authenticity of which is being questioned or at issue and there is strong reason to believe and evidence to prove that it is not authentic; or

(i) The assessment is based on an issue where a court of competent jurisdiction made an adverse decision against the Bureau, but for which the Supreme Court has not decided upon with finality.

2. *Financial Incapacity.* — The offer to compromise based on financial incapacity may be accepted upon showing that: 9r

(a) The corporation ceased operation or is already dissolved. *Provided, that tax liabilities corresponding to the Subscription Receivable or Assets distributed/distributable to the stockholders representing return of capital at the time of cessation of operation or dissolution of business shall not be considered for compromise*; or

(b) The taxpayer, *as reflected in its latest Balance Sheet supposed to be filed with the Bureau of Internal Revenue*, is suffering from surplus or earnings deficit resulting to impairment in the original capital by at least 50%, *provided that amounts payable or due to stockholders other than business-related transactions which are properly includible in the regular 'accounts payable' are by fiction of law considered as part of capital and not liability, and provided further that the taxpayer has no sufficient liquid asset to satisfy the tax liability*; or

(c) The taxpayer is suffering from a networth deficit (*total liabilities exceed total assets*) computed by deducting total liabilities (net of deferred credits *and amounts payable to stockholders/owners reflected as liabilities, except business-related transactions*) from total assets (net of prepaid expenses, deferred charges, pre-operating expenses, as well as appraisal increases in fixed assets), taken from the latest audited financial statements, *provided that in the case of an individual taxpayer, he has no other leviable properties under the law other than his family home*; or

(d) The taxpayer is a compensation income earner with no other source of income and the family's gross monthly compensation income does not exceed the levels of compensation income provided for under Sec. 4.1.1 of these Regulations, and it appears that the taxpayer possesses no other leviable or distrainable assets, other than his family home; or

(e) The taxpayer has been declared by any competent tribunal/*authority/body/government agency* as bankrupt or insolvent.

The Commissioner shall not consider any offer for compromise settlement on the ground of financial incapacity of *a taxpayer with Tax Credit Certificate (TCC), issued under the National Internal Revenue Code of 1997 or Executive Order No. 226, on hand or in transit, or with pending claim for tax refund or tax credit with the Bureau of Internal Revenue, Department of Finance One-Stop-Shop Tax Credit and Duty Drawback Center (Tax Revenue Group or Investment Incentive Group) and/or the courts, or with existing finalized agreement or prospect of future agreement with any party that resulted or could result to an increase in the equity of the taxpayer at the time of the offer for compromise or at a definite future time. Moreover, no offer of compromise shall be entertained unless* and until the taxpayer waives in writing his privilege of the secrecy of bank deposits under Republic Act No. 1405 or under other general or special laws, and such waiver shall constitute as the authority of the Commissioner to inquire into the bank deposits of the taxpayer.

> Presence of circumstances that would place the taxpayer-applicant's inability to pay in serious doubt can be a ground to deny the application for compromise based on financial incapacity of the taxpayer to pay the tax."

Under Revenue Memorandum Order No. 3-2017, "[a]ll approved applications for compromise settlement and/or abatement of penalties shall be issued *Certificate of Availment* (CA) following the prescribed format as per attached Annexes 'A' and 'B', while denied applications shall be issued Notice of Denial (ND) following prescribed format as per attached annexes 'C' and 'D'."

Finally, in *Philippine National Oil Company v. The Honorable Court of Appeals, et al.*,[26] the Supreme Court *En Banc* also emphasized the limitations inherent in the CIR's power to compromise:

> "The foregoing discussion supports the CTA's conclusion that the compromise agreement between PNOC and the BIR was indeed without legal basis. Despite this lack of legal support for the execution of the said compromise agreement, PNB argues that the CTA still had no jurisdiction to review and set aside the compromise agreement. It contends that the authority to compromise is purely discretionary on the BIR Commissioner and the courts cannot interfere with his exercise thereof.
>
> It is generally true that purely administrative and discretionary functions may not be interfered with by the courts; but when the exercise of such functions by the administrative officer is tainted by a failure to abide by the command of the law, then it is incumbent on the courts to set matters right, with this Court having the last say on the matter.
>
> The manner by which BIR Commissioner Tan exercised his discretionary power to enter into a compromise was brought under the scrutiny of the CTA amidst allegations of 'grave abuse of discretion and/or whimsical exercise of jurisdiction.' The discretionary power of the BIR Commissioner to enter into compromises cannot be superior over the power of judicial review by the courts.
>
> <u>The discretionary authority to compromise granted to the BIR Commissioner is never meant to be absolute, uncontrolled and unrestrained. No such unlimited power may be validly granted to any officer of the government</u>, except perhaps in cases of national emergency. In this case, <u>the BIR Commissioner's authority to compromise, whether under E.O. No. 44 or Section 246 of the NIRC of 1977, as amended, can only be exercised under certain circumstances specifically identified in said statutes. The BIR Commissioner would have to exercise his discretion within the parameters set by the law, and in case he abuses his discretion, the CTA may correct such abuse if the matter is appealed to them</u>. *gc*

[26] G.R. No. 109976 and G.R. No. 112800, April 26, 2005.

> Petitioners PNOC and PNB both contend that BIR Commissioner Tan merely exercised his authority to enter into a compromise specially granted by E.O. No. 44. Since this Court has already made a determination that the compromise agreement did not qualify under E.O. No. 44, BIR Commissioner Tan's decision to agree to the compromise should have been reviewed in the light of the general authority granted to the BIR Commissioner to compromise taxes under Section 246 of the NIRC of 1977, as amended. Then again, petitioners PNOC and PNB failed to allege, much less present evidence, that BIR Commissioner Tan acted in accordance with Section 246 of the NIRC of 1977, as amended, when he entered into the compromise agreement with PNOC." (*Underscoring supplied and citations omitted*)

Upon review of the supporting documents submitted by the parties, the Court finds that the Judicial Compromise Agreement has complied with the minimum amounts for compromise settlement prescribed in Section 204(A) of the NIRC. Specifically, the total compromise payment of 75% of the basic tax assessed was paid by the taxpayer.[27]

More importantly, in compliance with the Court's order, the parties have submitted the proof of approval by the NEB through the *Certificate of Availment* dated October 26, 2020. The *Certificate of Availment* states that petitioner's "application/s for the compromise settlement of deficiency Income, Value-Added and Miscellaneous tax/es amounting to Two Hundred Eighty Two Million Fifty Five Thousand Nine Hundred Fifty One & 22/100 Pesos Only (P282,055,951.22)" under Formal Letter of Demand dated April 25, 2013 covering taxable period 2009 has been approved by the National Evaluation Board.[28]

It bears emphasis as a final point that, in *Nestor T. Gadrinab v. Nora T. Salamanca, et al.*,[29] the Supreme Court held that once the compromise agreement is submitted to the Court and the latter has given its imprimatur thereof, the agreement has the force and effect of a judgment, to wit:

> "A judgment on compromise agreement is a judgment on the merits. It has the effect of *res judicata*, and is immediately final and executory unless set aside because of falsity or vices of consent. The doctrine of immutability of judgments bars courts from modifying decisions that have already attained finality, even if the purpose of the modification is to correct errors of fact or law." (*Underscoring supplied*)

WHEREFORE, in light of the foregoing considerations, the:

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[27] *Rollo*, Vol. 2, p. 692.
[28] *Id.* at p. 739.
[29] G.R. No. 194560, June 11, 2014.

1. Parties' Joint Manifestation with Motion for Judgment Based on Compromise Agreement is **NOTED** and **GRANTED**;

2. Manifestation [of Change in Partnership Name of Petitioner's Counsel] filed on October 30, 2020 is **NOTED**; and,

3. Manifestation [of Change of Petitioner's Name to Lifebank Microfinance Foundation, Inc.] is **NOTED**.[30]

4. Judicial Compromise Agreement is hereby **APPROVED** and this Judgement Based on Compromise Agreement is hereby rendered in accordance therewith. The parties are hereby **ENJOINED** to faithfully comply with all the terms and conditions of the aforesaid Judicial Compromise Agreement.

Accordingly, this case is now deemed **CLOSED AND TERMINATED**.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

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[30] *Rollo*, Vol. 2, pp. 721-733.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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 Judgement Based 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