REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

BANK OF COMMERCE,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7827

Members:

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

Promulgated:

APR 1 4 2009

8:01 a.m.

x- -x

RESOLUTION

For resolution are:

1. petitioner's **"Motion (To Consider the Case Closed and Terminated Due to Payment)"** filed on December 2, 2008;

2. respondent's **"Comment/Opposition (To Petitioner's Motion to Consider the Case Closed and Terminated due to Payment)"** filed on December 11, 2008; and

3. petitioner's **"Reply (To Respondent's Comment/Opposition dated 11 December 2008)"** filed on December 22, 2008.

In its motion, petitioner prays that the instant case be considered closed and terminated due to petitioner's availment of the Tax Amnesty under RA 9480 on October 23, 2007, and payment of amnesty tax in the amount of P32,341,716.55. Petitioner alleges that: (1) pursuant to Section 4 of RA 9480, the presumption of correctness of its SALN filed on October 23, 2007 can no longer be assailed since the one (1) year period following the date of filing of the tax amnesty return and the said SALN has already lapsed; (2) as a consequence of the availment of tax amnesty, the Government accorded petitioner immunity from payment of taxes for taxable year 2005 and prior years; and (3) petitioner's obligation to pay the alleged deficiency Documentary Stamp Taxes subject of this petition has been extinguished.

In his Comment, respondent prays for the denial of the motion for lack of merit, and counters that petitioner is not qualified to avail of RA 9480 since the assessment against it pertains to its deficiency Documentary Stamp Tax on Foreign Currency Deposit Unit (FDCU) transactions which are excluded in Revenue Memorandum Circular Nos. 69-2007 and 19-2008.

We find merit in the motion.

Section 2 of RA 9480 expressly provides:

> "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 a Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005, in such a form as may be prescribed in the implementing rules and regulations (IRR) of this act, and pay the corresponding tax amnesty tax thereof within six (6) months from the effectivity of the IRR."

This Court **NOTES** petitioner's **"Compliance"** filed on March 5, 2009 submitting the certified copy of Tax Amnesty Payment Form (BIR Form No. 0617). Further, *certified true copies* of BIR Tax Payment Deposit Slip, Notice of Availment of Tax Amnesty, Statement of Assets, Liabilities, and Networth (SALN) as of December 31, 2005, and Tax Amnesty Return were attached to petitioner's "Motion (To Suspend Collection of Alleged Tax Liability)" filed on November 14, 2008.

Petitioner having established that it availed of the tax amnesty on October 23, 2007; has complied with the requirements set forth in RA 9480, its Implementing Rules and Regulations (DO 29-07), and RMC 19-2008 ("Circularizing the Full Text of 'A Basic Guide on the Tax Amnesty Act of 2007' for Taxpayers Who Wish to Avail of the Tax Amnesty Pursuant to Republic Act No. 9480 [Tax Amnesty Act of 2007]"; and considering that the one (1)-year period provided under Section 4 of RA 9480 had lapsed;

Pursuant to the decision of the Supreme Court in *Philippine Banking Corporation (Now: Global Business Bank, Inc.) vs. Commission of Internal Revenue*, [GR No. 170574, January 30, 2009], the **"Motion (To Consider the Case Closed and Terminated Due to Payment)"** is hereby **GRANTED**.

WHEREFORE, premises considered, the assessments for deficiency Documentary Stamp Taxes for the taxable years 2000, 2001, 2002 and 2003 are hereby **CANCELLED** and **SET ASIDE** solely in view of petitioner's availment of the Tax Amnesty under RA 9480.

Accordingly, the instant Petition for Review is hereby considered **CLOSED** and **TERMINATED**.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice