REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

ORDOPRIME VENTURES, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9926

Members:

DEL ROSARIO, *P.J., Chairperson,*
FABON-VICTORINO, *and*
MANAHAN, *JJ.*

Promulgated:

JAN 15 2020 · 9:43 am

x- x

JUDGMENT BY COMPROMISE AGREEMENT

MANAHAN, *J.*:

On July 18, 2019, the parties filed a *Joint Manifestation with Motion for Time to Finalize and Execute a Compromise Agreement* on the ground that the compromise agreement is still with the respondent for his signature subject to verification and examination of pertinent records relative to the case.

On August 5, 2019, the Court issued a Resolution granting the *Joint Manifestation with Motion for Time to Finalize and Execute a Compromise Agreement* and gave the parties an additional thirty (30) days from July 1, 2019 or until July 31, 2019 within which to secure the approval of their compromise agreement.

On September 12, 2019, the selected mediator, (Ret.) Justice Oswaldo D. Agcaoili, submitted his *Mediator's Report* providing therein that a successful settlement has been reached by both parties and attaching among others, the original Compromise Agreement signed by the President of the petitioner and the Commissioner of Internal Revenue (CIR), Caesar R. Dulay.

On October 7, 2019, the Court issued a Resolution acknowledging the submission of the said original Compromise Agreement signed by both parties with a ruling that the approval of the National Evaluation Board (NEB) is no longer required considering that the basic tax involved in the deficiency tax assessment is less than Php1,000,000.00 and that the compromise amount is not less than 40% of the basic tax. However, the Court still required the parties to submit the following documents to complete the process of compromise, to wit:

1. Certified true copies of the Payment Forms (BIR Form 0605) evidencing payment of the compromise amount; and

2. Certified true copy of the Certificate of Availment (BIR Form No. 2342) signed by the CIR pursuant to Revenue Memorandum Order No. 003-17 dated February 1, 2017.

On October 28, 2019, respondent filed a *Motion for Additional Time to Comply with the Resolution dated 07 October 2019* requesting for an additional period of sixty (60) days to submit the aforesaid documents.

On November 8, 2019, the Court issued a Resolution granting respondent's *Motion for Additional Time to Comply with the Resolution dated 07 October 2019* giving the parties until December 27, 2019 to submit the documents requested by the Court in its Resolution dated October 7, 2019.

On December 6, 2019, petitioner filed its *Compliance* with the Resolution dated October 7, 2019 and submitted the following documents:

1. Certified Electronic Filing and Payment System (EFPS) printout of Payment Form 0605 indicating the payment of the amount of P215,953.76 with a certified EFPS printout of the EFPS Payment Details;

2. Certified EFPS printout of Payment Form 0605 indicating the payment of the amount of P163,477.02 with a certified EFPS printout of the EFPS Payment Details;

3. Certified EFPS printout of Payment Form 0605 indicating the payment of the amount of P7,892.20 with a certified EFPS printout of the EFPS Payment Details.

We now proceed to analyze the Compromise Agreement and the documents submitted by the parties in support thereof.

The Compromise Agreement reads as follows:

Undersigned parties, assisted by their respective counsels, Petitioner **ORDOPRIME VENTURES, INC.,** with address at Waltermart Center, Darasa, Tanauan City, Batangas, Philippines, represented herein by **FRANCIS JOSEPH G. ORDOVEZA**, and Respondent **COMMISSIONER OF INTERNAL REVENUE**, with address at Room 703 BIR Building, Bureau of Internal Revenue, Diliman, Quezon City, Philippines, represented by the Litigation Division.

AGREE as follows:

WHEREAS, on 12 September 2018, Petitioner Ordoprime Ventures, Inc. filed a Petition for Review challenging the validity of the Final Decision on Disputed Assessment issued by Respondent Commissioner of Internal Revenue in connection with the deficiency tax assessments for taxable year 2012. Under the Final Decision on Disputed Assessment, petitioner was required to pay basic tax due in the amount of **Nine Hundred Fifty-Six Thousand Four Hundred Sixty-Nine and 14/100 Pesos (Php956.469.14)** representing deficiency taxes; and

WHEREAS, during mediation proceedings before the Philippine Mediation Center-Court of Tax Appeals, Petitioner has offered to amicably settle the case for Three Hundred Eighty-Seven Thousand Three Hundred Twenty-Two and 98/100 Pesos (Php387,322.98) to avoid prolonged litigation as authorized by A.M. No. 11-1-05-SC-PHILJA.

NOW, THEREFORE, Petitioner has paid and Respondent accepted the amount of Three Hundred Eighty-Seven Thousand Three Hundred Twenty-Two and 98/100 Pesos (Php387,322.98), representing 40% of the basic income tax and value-added tax assessed and 100.00% of the expanded withholding tax assessed, as full satisfaction of the 2012 tax assessment subject to the approval of the Honorable Court of Tax Appeals.

IN WITNESS WHEREOF, the Parties hereto have mutually and voluntarily accepted the above stipulations, and sign this Agreement, at Quezon City on this __th day of June 2019 for the consideration and approval of the Honorable Court.

ORDOPRIME VENTURES, INC.
Petitioner

BY:

JOSEPH FRANCIS G. ORDOVEZA
President

COMMISSIONER OF INTERNAL REVENUE
Respondent

CAESAR R. DULAY
Commissioner

ATTESTED:

(Ret) Justice OSWALDO D. AGCAOILI
Mediator

RULING OF THE COURT

Section 204(A) of the 1997 National Internal Revenue Code (NIRC), as amended, provides:

> "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.

> 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."** (emphasis supplied)

Based on the above-cited provision, the requisites for a valid compromise agreement are the following:

1. The application for compromise is based on either the doubtful validity of respondent's assessment or taxpayer's financial incapacity to pay such assessment;

2. In case the basis of the compromise offer is doubtful validity, the minimum payment of compromise settlement shall be at the rate equivalent to forty percent (40%) of the basic assessed tax and, if the ground is financial incapacity, the minimum payment should be at the rate equivalent to ten percent (10%) of the basic assessed tax; and

3. The approval of the NEB which is composed of the respondent and his four (4) Deputy Commissioners if the subject assessment exceeds One Million pesos (P1,000.000) or where the settlement offered is less than the prescribed minimum rates.

Implementing the foregoing section of the 1997 NIRC,as amended, Revenue Regulations (RR) No. 30-2002 dated December 16, 2002, as amended by RR No. 8-2004, or the **"Revenue Regulations Implementing Section 7(c), 204(A) and 290 of the National Internal Revenue Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities Superseding Revenue Regulations Nos. 6-2000 and 7-2001,"** provides for those cases that may be compromised or not, to wit:

> SEC. 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**;
>
> xxx xxx xxx.

Based on the records of this case, particularly the original Compromise Agreement submitted by the parties, the application for compromise settlement was grounded on doubtful validity of respondent's tax assessment.

Section 3 of RR No. 30-2002, as amended, provides the instances when the ground of doubtful validity of assessment exists which include, *inter alia*, when "the assessment seems to be arbitrary in nature, appearing to be based on presumptions and there is reason to believe that it is lacking in legal and/or factual basis" or "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."

In respondent's Answer to the Petition for Review[1], he reiterated his position held in the Final Decision on Disputed Assessment (FDDA) that the assessments for Income Tax, Value-Added Tax (VAT), Expanded Withholding Tax (EWT) were based on the results of the tax audit/investigation conducted by the revenue examiners on petitioner's books of accounts and other accounting records for taxable year 2012 which the latter disputed in its protest for being erroneous and bereft of factual and legal bases. This was further emphasized by petitioner in its Petition for Review filed with this Court assailing the deficiency tax assessments as having been based

---

[1] Docket, pp. 272-281.

on an erroneous method of computation adopted by the revenue examiners in computing its gross sales for 2012 resulting to income tax, VAT and EWT deficiencies. Petitioner likewise challenged the imposition of a compromise penalty on the ground that it filed its quarterly VAT and Annual Income tax returns for 2012 within the prescribed period and that it likewise timely filed its letter protest and requests for reconsideration and Petition for Review, hence there is no legal basis for its imposition.

It is well-settled that an assessment, to withstand the test of judicial scrutiny, must be based on actual facts. In the case of *Commissioner of Internal Revenue v. Island Garment Manufacturing Corporation et al.*[2], citing the case of *Collector of Internal Revenue v. Alberto D. Benipayo*[3], the Supreme Court ruled that:

> "An assessment fixes and determines the tax liability of a taxpayer. As soon as it is served, an obligation arises on the part of the taxpayer concerned to pay the amount assessed and demanded. Hence, assessments should not be based on mere presumptions no matter how reasonable or logical said presumptions may be ...
>
> **In order to stand the test of judicial scrutiny, the assessment must be based on actual facts. The presumption of correctness of assessment being a mere presumption cannot be made to rest on another presumption ...**" (emphasis supplied)

Based on the foregoing, the first requisite under Section 204(A) of the 1997 NIRC, as amended, pertaining to the ground of doubtful validity is complied with.

As to the second requisite pertaining to the amount of compromise payment, the submitted Compromise Agreement which reflected the amounts indicated in the Formal Letter of Demand dated January 12, 2016 and reiterated in respondent's FDDA dated March 5, 2018 consisted of the following internal revenue taxes and their corresponding basic tax assessments, to wit:

Tax Type	**Basic Tax**
Income Tax	Php 539,884.39

[2] G.R. No. L-46644,September 11, 1987.
[3] G.R. No. L-13656, January 31, 1962.

Value-Added Tax	408,692.55
Expanded Withholding Tax	7,892.20
Total	**Php 956,469.14**

Based on the Compromise Offer Evaluation Report[4] prepared by the Litigation Division of the Bureau of Internal Revenue (BIR), the amounts of compromise settlement to be paid by the petitioner were computed as follows:

Tax Type	Basic Tax	Compromise Rate	Compromise Amount
Income Tax	Php 539,884.39	40%	Php 215,953.76
Value-Added Tax	408,692.55	40%	163,477.02
Expanded Withholding Tax	7,892.20	100%	7,892.20
Total	**Php 956,469.14**		**Php387,322.98**

Applying the 40% compromise amount under Section 204(A) of the 1997 NIRC, as amended, in the instant case, the computation for the compromise amount of settlement as shown above is in accordance with the said provision of the 1997 NIRC, as amended.

Petitioner paid the following amounts through respondent's eFPS, to wit:

Tax Type	Payment Transaction No.	Amount Paid
Income Tax	1904182805[5]	Php 215,953.76
Value-Added Tax	1845549266[6]	163,477.02
Expanded Withholding Tax	1845518517[7]	7,892.20
Total		**Php 387,322.98**

Thus, the correct computation of the amounts of compromise settlement payable and their subsequent payment by petitioner constitute compliance with the second requisite.

As to the last requisite, the approval of the NEB was held by the Court to be no longer necessary considering that the amount involved in this case is less than one million pesos

[4] Docket, as an attachment to the Compromise Agreement signed by both parties.
[5] Docket, certified EFPS printout.
[6] Docket, certified EFPS printout.
[7] Docket, certified EFPS printout.

(Php1,000,000.00) and considering that the compromise amount is not less than 40% of the basic tax.[8]

With the faithful observance by the parties of all the requisites under Section 204(A) of the 1997 NIRC, as amended, the Court hereby grants the Compromise Agreement submitted by the parties.

In the case of *Far East Bank and Trust Co. et al. v. Trust Union Shipping Corp. et al.*,[9] the Supreme Court explains the effect of a compromise agreement, to wit:

> "**A compromise is a contract whereby the parties**, by making reciprocal concessions, **avoid litigation or put an end to one already commenced.** It is an accepted and desirable practice in courts of law and administrative tribunals. Settlement of disputes brought before the courts is, in fact, encouraged.
>
> It is settled that contracting parties may establish such stipulations, clauses, terms and conditions as they deem convenient, provided that these are not contrary to law, morals, good customs, public order, or public policy." (Emphasis supplied)

Further, in the case of *Conchita A. Sonley v. Anchor Savings Bank/Equicom Savings Bank*,[10] the Supreme Court ruled that once the compromise agreement is submitted to the Court and the latter has given its *imprimatur* thereof, it has the force and effect of a judgment, to wit:

> "Corollary thereto, once submitted to the court and stamped with judicial approval, a compromise agreement becomes more than a mere private contract binding upon the parties. Having the sanction of the court and entered as its determination of the controversy, it has the force and effect of any judgment."

WHEREFORE, in light of the foregoing, petitioner's *Compliance* filed on December 16, 2019 is **NOTED** and **DEEMED SUFFICIENT COMPLIANCE** with the Resolutions of the Court dated October 7, 2019 and November 8, 2019.

---

[8] Resolution dated October 7, 2019.
[9] G.R. No. 154716, September 16, 2008.
[10] G.R. No. 205623, August 10, 2016.

The **Compromise Agreement** entered into by the parties is hereby **APPROVED** and this **Judgement by 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 Compromise Agreement.

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

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Judgment were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice