REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

APO CEMENT CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7511

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

Promulgated:
JUN 11 2009
2:30 p.m.

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RESOLUTION

This resolves petitioner's **"Motion to Cancel Tax Assessment (With Motion to Admit Attached Formal Offer of Evidence)"** filed on April 17, 2009, and respondent's **"Opposition (Re: Motion to Cancel Tax Assessment with Motion to Admit Attached Formal Offer of Evidence)"** filed on April 27, 2009.

In its **"Motion to Cancel Tax Assessment,"** petitioner prays for an order/resolution: (1) granting the admission of petitioner's attached Formal Offer of Evidence; (2) granting the motion to cancel assessment pursuant to the provisions of RA 9480; and (3) canceling the assessment notices issued against petitioner for deficiency documentary stamp tax in the amount of Php67,433,862.97 for taxable year 1999 and the rest of assessment notices contained in respondent's June 15, 2006 Final Decision on Disputed Assessment.

On the other hand, in his **"Opposition,"** respondent avers that petitioner's non-completion of the details required under Section 3 of RA 9480 cannot be deemed full compliance with the Tax Amnesty Law, as provided in Section 6, Rule III of the Department Order No. 29-07; the one-year period under Section 4 of RA 9480 has not yet lapsed and does not apply insofar as the Court is concerned; and petitioner is not qualified under the Tax Amnesty Law for failure to fully comply with the amendatory requirements provided in Section 2 of RA 9480, in relation to Section 6(3) of Rule III and Section 8(1)(a)(b)(c) and (2) of Rule IV of Department Order No. 29-07, the Implementing Rules and Regulations of RA 9480.

As regards petitioner's **"Motion to Admit Attached Formal Offer of Evidence"**, in the paramount interest of substantial justice, the motion is hereby **GRANTED**, and petitioner's **"Formal Offer of Evidence"** is **ADMITTED**. Accordingly, **Exhibits "C"** to **"CC"**, inclusive of their sub-markings, are hereby **ADMITTED**, subject to the Court's final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in this case.

As regards the **"Motion to Cancel Tax Assessment,"** records reveal that petitioner, a qualified tax amnesty applicant, has availed of the tax amnesty on January 25, 2008, and has fully complied with the requirements set forth in RA No. 9480, Department Order No. 29-07, and Revenue Memorandum Circular No. 19-2008; and the one (1)-year period provided under Section 4 of RA 9480 had lapsed.

Pursuant to the decision of the Supreme Court in the ***Philippine Banking Corporation, (now Global Business Banking) vs. Commissioner***

of Internal Revenue (G.R. No. 170574, January 30, 2009), petitioner's **"Motion to Cancel Tax Assessment"** is hereby **GRANTED.**

As regards petitioner's prayer to cancel the rest of the assessment notices for other deficiency taxes for the taxable year 1999 on the ground that petitioner had already paid the same, as shown in paragraph 7 of the Summary of Admitted Facts in the parties' **"Joint Stipulation of Facts and Issues,"** finding the same to be well taken, the same is **GRANTED**.

WHEREFORE, premises considered:

1) the Assessment Notices for deficiency Documentary Stamp Taxes for taxable year 1999 issued against petitioner are hereby **CANCELLED** and **SET ASIDE**, solely in view of petitioner's availment of the Tax Amnesty under RA 9480;

2) the Assessment Notices for deficiency Income Tax, Value-Added Tax, VAT Withholding Tax, Withholding Tax on Compensation, Unremitted Withholding Tax on Compensation, Expanded Withholding Tax, Unremitted Expanded Withholding Tax, Final Withholding Tax, and Fringe Benefits Tax are hereby **CANCELLED** and **SET ASIDE** in view of petitioner's payment of said taxes.

Accordingly, the above-captioned case is hereby considered **CLOSED** and **TERMINATED.**

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice