REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

DUNLEVY FOOD CORPORATION, *Petitioner,*	**CTA CASE NO. 9361** For: Refund
-versus-	Members: CASTAÑEDA, JR., *Chairperson,* MINDARO-GRULLA, and BACORRO-VILLENA, *JJ.*
COMMISSIONER OF INTERNAL REVENUE *Respondent.*	Promulgated: DEC 11 2019 2:15 p.m.

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision on January 11, 2019 is a *Petition for Review* filed by Dunlevy Food Corporation against the Commissioner of Internal Revenue, praying for the refund or issuance of a tax credit certificate in the amount of ₱7,800,000.00, allegedly representing penalties erroneously collected and/or imposed without authority.

Petitioner is a domestic corporation duly organized and existing under and by virtue the laws of the Republic of the Philippines, with principal offices at Room 117 G/F Ortigas Building, Ortigas Avenue, Pasig City.[1]

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue, empowered to perform his/her duties and responsibilities as such, including but not limited to, the power to decide, approve and grant refunds of erroneously or

[1] Par. 7, *Petition for Review*, Docket, p. 11.

excessively paid taxes or penalties imposed without authority, as provided by law.[2]

On March 21, 2014, the Regional Director for the Bureau of Internal Revenue (BIR) Revenue Region No. 7 issued Mission Order No. 00096205,[3] directing the officers of BIR Revenue District Office (RDO) No. 43A to (i) verify the registration and bookkeeping requirements of petitioner, as well as its compliance with the new invoicing requirements, and (ii) validate the permit to use Cash Register Machines (CRM) and/or Point of Sales machines (POS) of petitioner.[4]

Pursuant to the above-mentioned Mission Order, the officers of the BIR RDO No. 43A, on various dates after March 21, 2014, conducted the (i) verification of the registration and bookkeeping requirements of petitioner, and (ii) validation of the permit to use CRM and/or POS of petitioner.[5]

Relative thereto, petitioner was made to pay on May 30, 2014 the following compromise penalties for the alleged corresponding violations in the aggregate amount of ₱7,800,000.00, to wit:[6]

Alleged Violation	Penalty Imposed
a. No Books	₱2,100,000.00
b. No Official Receipts	₱2,100,000.00
c. No Back End Report	₱2,100,000.00
d. Unaccounted POS	₱1,500,000.00
Total	**₱7,800,000.00**

Petitioner then filed the letter dated May 2, 2016[7] and an *Application for Tax Credits / Refunds* (BIR Form No. 1914)[8] with the BIR on May 3, 2016, requesting the refund of the said compromise penalties.

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[2] Par. 8, *Petition for Review*, Docket, pp. 11 to 12, vis-à-vis Par. 3, *Answer*, Docket, p. 51; Par. 1, Summary of Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket, p. 125.
[3] Exhibit "P-1", Docket, p. 110; Exhibit "R-1", BIR Records, p. 65.
[4] Par. 2, Summary of Admitted Facts, JSFI, Docket, p. 125.
[5] Par. 3, Summary of Admitted Facts, JSFI, Docket, pp. 125 to 126.
[6] Exhibits "P-2", "P-3", "R-13", and "R-13-a", Docket, pp. 111 to 112.
[7] Exhibit "P-4", Docket, pp. 113 to 117.
[8] Exhibit "P-5", Docket, p. 118.

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The instant *Petition for Review* was filed with this Court on May 27, 2016.[9]

On August 22, 2016, respondent filed his *Answer*,[10] interposing the following special and affirmative defenses:

> "12. The Honorable Court of Tax Appeals has no jurisdiction over the case.
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> Paragraph (C) Section 204 in relation to Section 229 of the NIRC of 1997, provides:
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> > 'Section 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes – The Commissioner may –
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> > xxx
> >
> > (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his direction, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: Provided, however, that a return filed showing an overpayment shall be considered as a written claim for credit or refund. Xxx"
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> Section 229 of the NIRC of 1997, as amended, provides:
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> > 'Section 229. Recovery of Tax Erroneously or Illegally Collected – No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have

[9] Docket, pp. 10 to 27.
[10] Docket, pp. 51 to 59.

> collected without authority, or any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
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> In any case, no suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after penalty: Provided, however, that the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.'

As clearly, discussed in the preceding paragraphs, the penalties paid by the Petitioner was in the nature of a compromise penalty. It was paid by petitioner to avoid criminal prosecution and imposition of administrative sanctions.

Nowhere in the Petition for Review does it show that the taxes paid by petitioner were erroneously or illegally assessed or collected. The penalties were not excessive nor wrongfully collected.

Thus, the penalties subject matter of the instant case are not refundable and beyond the jurisdiction of the Honorable Court.

14. In an action for tax refund/credit, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund/credit, and failure to adduce sufficient proof is fatal to the action for tax refund/credit.

15. Basic is the rule that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same.

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16. Taxes collected are presumed to be in accordance with laws and regulations. Hence, not refundable.

17. Petitioner failed to sufficiently prove and demonstrate that the subject tax was erroneously or illegally collected. Hence, not refundable.

18. Taxes are lifeblood of the nation. The Philippines has been struggling to improve its tax efficiency collection for the longest time with minimal success. Consequently, the Philippines has suffered the economic adversities arising from poor tax collections, forcing the government to continue borrowing to fund the budget deficits. This Court cannot turn a blind eye to this economic malaise by being unduly liberal to taxpayers who do not comply with statutory requirements for tax refunds or credits. The tax refund claims in the present cases are not a pittance. Many other companies stand to gain if this Court were to rule otherwise. The dissenting opinions will turn on its head the well-settled doctrine that refunds are strictly construed against the taxpayer."

The pre-trial conference was initially set on September 29, 2016.[11] However, the said schedule was reset to November 24, 2016 per the Notice of Resetting issued by the Executive Clerk of Court III, Atty. Jesus P. Inocando.[12] Hence, the pre-trial conference was held on November 24, 2016.[13]

Respondent's Pre-Trial Brief was submitted on September 21, 2016;[14] while petitioner's *Pre-Trial Brief* was filed on September 23, 2016.[15]

On December 9, 2016, the parties filed their *Joint Stipulation of Facts and Issues* (JSFI).[16] Consequently, the Pre-Trial Order dated January 17, 2017 was issued,[17] approving the said JSFI and thereby terminating the pre-trial.

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[11] Notice of Pre-Trial Conference dated August 24, 2016, Docket, pp. 60 to 61.
[12] Docket, p. 120.
[13] Minutes of the hearing held on, and Order dated, November 24, 2016, Docket, pp. 123 to 124.
[14] Docket, pp. 62 to 65.
[15] Docket, pp. 95 to 100.
[16] Docket, pp. 125 to 128.
[17] Docket, pp. 130 to 132.

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The trial of the case then proceeded.

During trial, petitioner presented its documentary and testimonial evidence. The lone witness for petitioner is Mr. Jose Marion L. Calvendra,[18] petitioner's custodian of records.

On March 27, 2017, petitioner filed its *Formal Offer of Documentary Evidence.*[19] Respondent failed to file his comment thereon.[20] In the Resolution dated April 25, 2017,[21] the Court admitted Exhibits "P-1", "P-2", "P-4", and "P-5", and denied the following:

1) Exhibits "P-6", and "P-6-A", for petitioner's failure to comply with Section 3(b) and (c) of the Judicial Affidavit Rule in relation to Section 10(c) thereof; and
2) Exhibit "P-3", for petitioner's failure to have the same identified.

Consequently, petitioner filed its *Motion for Reconsideration* on May 8, 2017,[22] praying for the admission of Exhibits "P-3", "P-6", and "P-6-A". Thus, in the Resolution dated June 27, 2017,[23] the Court admitted the said Exhibits.

Petitioner's documentary exhibits are as follows:

Exhibits:	Description:
P-1	BIR Mission Order No. 00096205
P-2	BIR Form No. 0605
P-3	Bank Deposit Slip
P-4	Written application for refund of petitioner through the letter dated 02 May 2016
P-5	BIR Form No. 1914
P-6	Judicial Affidavit of Mr. Jose Mario L. Calvendra
P-6-A	Signature of Mr. Calvendra in his Judicial Affidavit

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[18] Exhibit "P-6", Docket, pp. 73 to 81; Minutes of the hearing held on, and Order dated, February 27, 2017, Docket, pp. 138 to 139.
[19] Docket, pp. 147 to 150.
[20] Records Verification dated March 30, 2017 issued by the Judicial Records Division of this Court, Docket, p. 151.
[21] Docket, pp. 157 to 158.
[22] Docket, pp. 161 to 166.
[23] Docket, pp. 180 to 182.

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Respondent likewise presented documentary and testimonial evidence. His witnesses are: (1) Mr. Rodel S. Buenaobra,[24] Assistant Revenue District Officer of RDO No. 28; (2) Mr. Alfredo M. Santos,[25] Group Supervisor (GS) of RDO No. 38; (3) Mr. Roland F. Zamora,[26] GS of RDO No. 40; and (4) Ms. Teresita Florendo,[27] Revenue Officer at RDO No. 38.

Respondent filed his *Formal Offer of Evidence* on May 4, 2018.[28] Petitioner then filed its *Comment* thereon on May 28, 2018.[29] Thus, in the Resolution dated July 20, 2018,[30] the Court admitted respondent's Exhibits "R-2", "R-2-A", "R-3", "R-4", "R-13", "R-13-A", "R-14", "R-14-A", "R-15", "R-15-A", "R-16", "R-16-A", "R-17", and "R-17-A"; but denied Exhibits "R-1", "R-5", "R-6", "R-7", "R-8", "R-9", "R-10", "R-11", and "R-12", for failure to present their originals for comparison.

On August 9, 2018, respondent filed his *Motion for Reconsideration (Resolution of 20 July 2018)*,[31] praying for the admission of the said denied Exhibits. However, in the Resolution dated October 10, 2018,[32] the said *Motion* was denied for lack of merit.

The admitted documentary exhibits offered by the respondent are the following:

Exhibits:	Description:
R-2	Letter of Authority SN: Ela201100068356 dated 25 March 2014
R-2-A	Checklist of Requirements
R-3	First Request for Presentation of Records dated 28 April 2014
R-4	Second and Final Notice dated 09 May

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[24] Exhibit "R-14", Docket, pp. 188 to 197; Minutes of the hearing held on, and Order dated, August 2, 2017, Docket, pp. 214 to 215.
[25] Exhibit "R-15", Docket, pp. 262 to 270; Minutes of the hearing held on, and Order dated, April 11, 2018, Docket, pp. 286 to 287.
[26] Exhibit "R-16", Docket, pp. 280 to 285; Minutes of the hearing held on, and Order dated, April 11, 2018, Docket, pp. 286 to 287.
[27] Exhibit "R-17", Docket, pp. 271 to 276; Minutes of the hearing held on, and Order dated, April 11, 2018, Docket, pp. 286 to 287.
[28] Docket, pp. 296 to 303.
[29] Docket, pp. 307 to 313.
[30] Docket, pp. 315 to 316.
[31] Docket, pp. 317 to 321.
[32] Docket, pp. 335 to 340.

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R-13	Payment Form
R-13-A	UCPB BTR-BIR Deposit Slip
R-14	Judicial Affidavit of Mr. Rodel S. Buenaobra
R-14-A	Signature of Mr. Rodel S. Buenaobra
R-15	Judicial Affidavit of Mr. Alfredo M. Santos
R-15-A	Signature of Mr. Alfredo M. Santos
R-16	Judicial Affidavit of Mr. Roland F. Zamora
R-16-A	Signature of Mr. Roland F. Zamora
R-17	Judicial Affidavit of Ms. Teresita Florendo
R-17-A	Signature of Ms. Teresita Florendo

Petitioner filed its *Memorandum* on December 5, 2018.[33] Respondent, however, failed to file his memorandum.[34]

The Court declared the case submitted for decision on January 11, 2019.[35]

THE ISSUE

The parties submitted the following issue for this Court's resolution, to wit:

> "...whether petitioner is entitled to the refund of, or issuance of a TCC corresponding to, the penalties in the total amount of Seven Million Eight Hundred Thousand Pesos (P7,800,000.00)."[36]

Petitioner's arguments:

Petitioner argues that the BIR did not: (1) afford petitioner due process in imposing and collecting the subject penalties; and (2) have any basis, in fact and in law, to impose and collect the said penalties.

Moreover, petitioner avers that it properly maintained its books of accounts as required by law and regulations; that it properly secured the appropriate official receipts for the use of its head office

[33] Docket, pp. 341 to 363.
[34] Records Verification dated December 13, 2018 issued by the Judicial Records Division of this Court, Docket, p. 365.
[35] Resolution dated January 11, 2019, Docket, p. 366.
[36] Issues, JSFI, Docket, p. 126.

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and its branches; that the Tax Code, or any of the regulations of the BIR, does not require any taxpayer to maintain such "back-end report", much less submit the same to the BIR; that petitioner properly registered all of its POS machines and complied with existing regulations in connection with the use thereof; and that the above-mentioned penalties imposed in BIR Form No. 0605 are arbitrary and excessive, and therefore, petitioner is entitled to the refund of the same.

Respondent's counter-arguments:

In his *Answer*, respondent contends that this Court has no jurisdiction over the case.

Moreover, respondent avers that the penalties paid by petitioner was in the nature of a compromise penalty; that it was paid by petitioner to avoid criminal prosecution and imposition of administrative sanctions; that nowhere in the *Petition for Review* does it show that the taxes paid by petitioner were erroneously or illegally assessed or collected; that the penalties were not excessive, nor wrongfully collected; that the penalties subject matter of the instant case are not refundable and beyond the jurisdiction of this Court.

In addition, according to respondent, basic is the rule that tax refunds are in the nature of tax exemptions, and are to be construed *strictissimi juris* against the entity claiming the same.

The instant *Petition for Review* has merit.

This Court shall first resolve the issue of jurisdiction.

This Court has jurisdiction to entertain the present appeal.

In arguing that this Court has no jurisdiction over the instant case, respondent claims that nowhere in the *Petition for Review* does it show that the taxes paid by petitioner were erroneously or illegally assessed or collected; that the penalties paid were collected with authority; and that the penalties were not excessive, nor wrongfully collected.

We disagree with respondent.

Section 7(a)(1) of Republic Act (RA) No. 1125,[37] as amended by RA No. 9282[38], to wit:

> "SECTION 7. *Jurisdiction.* – The CTA shall exercise:
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> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of** internal revenue taxes, fees or other charges, **penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**;
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> (2) **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of** internal revenue taxes, fees or other charges, **penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**, where the National Internal Revenue Code provides a specific period for action, in which the inaction shall be deemed a denial;" *(Emphases and underscoring ours)*

Based on the foregoing provisions, the exclusive appellate jurisdiction of this Court includes respondent's decisions and inactions in cases involving, *inter alia*, refunds of penalties in relation to taxes. Moreover, the second part of the provision covers other cases that arise out of the National Internal Revenue Code (NIRC) or related

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[37] AN ACT CREATING THE COURT OF TAX APPEALS.
[38] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

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laws administered by the BIR. The wording of the provision is clear and simple.[39]

In this case, it is undisputed that what is being refunded are compromise *penalties* collected by, or imposed by the BIR, for supposed violations committed by petitioner. Moreover, it is noted that both petitioner and respondent invoke Section 229 of the NIRC of 1997 (*infra*),[40] which deals with the refund of *"any penalty claimed to have been collected without authority"*. Thus, without doubt, the subject matter of the instant *Petition for Review* arose from the application of the said law. Considering that the instant case involves penalties, and falls under other matters arising from the NIRC, the Court has exclusive appellate jurisdiction to entertain the same.

The subject compromise penalties were collected without authority, or have been excessively or in any manner wrongfully collected.

Section 229 of the NIRC of 1997 provides as follows:

> "SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court **for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected**, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
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> xxx xxx xxx." *(Emphasis ours)*

Based on the foregoing provision, the law allows the recovery by a taxpayer from respondent of certain sums, which may be classified as follows, to wit:

[39] *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004.
[40] Refer to Par. 4, *Petition for Review*, Docket, p. 11; and Par. 12, *Answer*, Docket, pp. 55 to 56.

1. Any national internal revenue taxes alleged to have been erroneously or illegally assessed or collected,
2. **Any penalty** claimed to have been collected without authority, and
3. **Any sum** alleged to have been excessively or in any manner wrongfully collected.

The *first* classification covers an "erroneous or illegal tax", which is defined as one levied without statutory authority, or upon property not subject to taxation or by some officer having no authority to levy the tax, or one which is some other similar respect is illegal.[41] The *second* classification clearly refers to penalties collected without authority; while the *third* classification pertains to sums of money excessively or in any manner wrongfully collected.

Considering that subject matter of the instant case involves the refund of compromise penalties, the same may fall under either the *second* or *third* classification.

Correspondingly, We shall proceed to determine whether there is merit in petitioner's claim for refund.

We rule in favor of petitioner.

Section 6 of Revenue Regulations (RR) No. 12-99[42] reads:

> "SECTION 6. **Suggested Compromise Penalty in Extra-judicial Settlement of a Taxpayer's Criminal Violation.** – Section 204 of the Tax Code of 1997 provides that ***'All criminal violations may be compromised except: (a) those already filed in court, or (b) those involving fraud.'*** This means that, in general, the taxpayer's criminal liability arising from his violation of the pertinent provision of the Code may be settled extra-judicially instead of the BIR instituting against the taxpayer a criminal action in Court. A

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[41] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012.

[42] SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-judicial Settlement of a Taxpayer's Criminal Violation of the Code through Payment of a Suggested Compromise Penalty.

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> compromise in extra-judicial settlement of the taxpayer's criminal liability for his violation is consensual in character, hence, may not be imposed on the taxpayer without his consent. Hence, the BIR may only suggest settlement of the taxpayer's liability through a compromise.
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> The extra-judicial settlement of the taxpayer's criminal liability and the amount of the suggested compromise penalty shall conform with the schedule of compromise penalties provided under Revenue Memorandum Order No. 1-90 or as hereafter revised." *(Underscoring supplied)*

Based on the foregoing provision, it is clear, *inter alia*, that payment of a suggested compromise penalty must conform with the schedule of compromise penalties provided under Revenue Memorandum Order (RMO) No. 1-90 or any revision thereon after the promulgation of RR No. 12-99.

In the instant case, the applicable administrative issuance dealing with the imposition of compromise penalties and providing the schedule thereof is RMO No. 19-2007[43], pertinent portions of which state:

> "...**the following are hereby prescribed for the information and strict compliance by all concerned:**
>
> 1. **In all cases of criminal violations of the NIRC, not involving the commission of fraudulent act, it is directed that henceforth, compromise penalties to be imposed shall follow strictly the amounts in the attached 'Revised Schedule of Compromise Penalties', marked as Annex 'A' and made an integral part hereof.**
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> 2. Certain acts/violations which are commonly resorted to by taxpayers as means of tax

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[43] SUBJECT: The Consolidated Revised Schedule of Compromise Penalties for Violations of the National Internal Revenue Code.

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> evasion are deleted from the coverage thereof for having met the requirements of the definition of fraudulent acts.
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> III. Guidelines and Instructions:
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> **1. The internal revenue officers concerned shall apply the Revised Schedule of Compromise Penalties embodied in Annex 'A' to ensure uniformity of action.**
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> xxx xxx xxx
>
> **4. Although all amounts of compromise penalties incident to violations shall be itemized in the assessment notice and/or demand letter, the same should not form part of assessment notice that reflects deficiency basic tax, surcharge and interest but <u>should appear in a separate assessment notice/demand letter</u> as the amount suggested to the taxpayer to pay in lieu of criminal prosecution.** If paid, the compromise penalties shall be collected and accounted for under the usual procedures, as internal revenue collection.
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> xxx xxx xxx" *(Emphases and underscoring ours)*

It is likewise clear from the foregoing provisions that the following rules must be strictly followed in the imposition and collection of compromise penalties, to wit:

a) To ensure uniformity of action of internal revenue officers, the imposition of compromise penalties shall strictly follow the amounts stated in the *Revised Schedule of Compromise Penalties* attached to RMO No. 19-2007 as Annex "A" therof; and
b) All amounts of compromise penalties incident to violations shall be itemized in a separate assessment notice/ demand letter as the amounts suggested to the taxpayer to pay in lieu of criminal prosecution.

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In this case, the supposed criminal violations committed by petitioner are not clearly shown as falling under any of the items stated in the *Revised Schedule of Compromise Penalties* attached to RMO No. 19-2007. Thus, it could not be said that the imposition of the subject compromise penalties strictly followed the amounts stated in the said *Revised Schedule*.

Furthermore, it was established that after conducting the verification and validation of the BIR, petitioner was made to pay on May 30, 2014 the following compromise penalties for the alleged corresponding violations in the aggregate amount of ₱7,800,000.00, without an assessment notice or demand letter being issued.[44]

Such being the case, in imposing the subject compromise penalties, respondent or the BIR did not follow the strict mandate that all amounts of compromise penalties shall be itemized in a *separate* assessment notice/demand letter.

In sum, for failure of respondent or the BIR to strictly observe the requirements of RMO No. 19-2007, the amount of compromise penalties paid by petitioner is deemed to have been collected without authority. Moreover, upon the same reason, the subject compromise penalties paid by petitioner may also be considered as a sum which was wrongfully collected. Thus, it must be emphasized that acts executed against the provisions of mandatory or prohibitory laws shall be void.[45] Relative thereto, since the pertinent provisions of RMO No. 19-2007 were not strictly observed by respondent or the BIR in this case, the payment of compromise penalties by petitioner is invalid.

WHEREFORE, in light of the foregoing considerations, the *Petition for Review* is **GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱7,800,000.00**, representing compromise penalties imposed without authority or were wrongfully collected.

[44] Refer to Exhibits "P-2", "P-3", "R-13", and "R-13-a", Docket, pp. 111 to 112.
[45] Civil Code of the Philippines, Article 5 provides: *"Acts executed against the provisions of mandatory or prohibitory laws shall be void, except when the law itself authorizes their validity."* Refer also to *Barcelote vs. Republic of the Philippines, et al.*, G.R. No. 222095, August 7, 2017.

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SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision 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