REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

ST. DOMINIC MEDICAL CENTER, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9878

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:

MAR 02 2022 11:35 am

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DECISION

MANAHAN, J.:

This is a Petition for Review filed by petitioner St. Dominic Medical Center, Inc. against the Commissioner of Internal Revenue (CIR) seeking the cancellation and withdrawal of the Warrant of Distraint and/or Levy (WDL) dated May 25, 2018 issued for the taxable year (TY) 2013, for alleged deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), improperly accumulated earnings tax (IAET), documentary stamp tax (DST), and miscellaneous tax, in the total amount of ₱13,014,037.87, inclusive of the basic taxes, surcharge, interests and compromise penalties.[1]

THE PARTIES

Petitioner St. Dominic Medical Center, Inc. is a domestic corporation duly organized and registered under the laws of the Philippines, with principal office at Bo. Talaba, Bacoor, Cavite.[2]

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[1] Prefatory Statement, *Petition for Review*, Docket – Vol. I, p. 10; Petitioner's *Memorandum*, Docket – Vol. II, p. 827.
[2] Exhibit "P-20", Docket – Vol. II, pp. 778 to 803.

It is registered with the Bureau of Internal Revenue (BIR) under Taxpayer Identification Number (TIN) 001-006-739-000.[3]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) empowered to perform the duties of said office, including, among others, the power to assess and collect all national internal revenue taxes, fees and charges, and to enforce all forfeitures, penalties, and fines connected therewith, with office address at Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City.

THE FACTS

A tax examination of petitioner's books of accounts and other accounting records was conducted by the BIR pursuant to Letter of Authority (LOA) No. LOA-54B-2015-00000051 SN: Ela201100061035 dated June 5, 2015, for alleged deficiency internal revenue taxes for TY 2013.[4]

On May 26, 2016, petitioner received a Preliminary Summary of Tax Deficiencies as well as the Memorandum of Assignment (MOA) dated May 11, 2016, authorizing Revenue Officer (RO) Melissa Carla R. Baes and Group Supervisor (GS) Elizabeth M. Abello to continue the tax audit or investigation and replace the previously assigned revenue officers indicated in the LOA.[5]

Petitioner, through its President, Dr. Gregorio Andaman, Jr., executed a Waiver of the Defense of Prescription extending the prescriptive periods for the assessment of internal revenue tax liabilities of petitioner prescribed in Sections 203 and 222 of the 1997 National Internal Revenue Code (NIRC), as amended, until December 31, 2017. The said Waiver of the Defense of Prescription was accepted by respondent on June 23, 2016.[6]

Petitioner received a Preliminary Assessment Notice (PAN) dated December 9, 2016, together with the Details of Discrepancies, for alleged deficiency taxes in the total amount

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[3] Par. 3, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, p. 756.
[4] Par. 4, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, p. 757.
[5] Par. 5, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, p. 757; Refer also to Par. 12, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, p. 758.
[6] Par. 6, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, p. 757.

of ₱12,921,132.10, inclusive of the basic taxes, surcharges, interest, and compromise penalties for TY 2013.[7]

On January 13, 2017, petitioner received a Formal Letter of Demand (FLD), together with the Details of Discrepancies and the Assessment Notice Nos. RR9-54B-eLA-13-IT-032, RR9-54B-eLA-13 VT-032, RR9-54B-eLA-13-WE-032, RR9-549-eLA-13-IAET-032, RR9-54B-eLA-13-DA-032, and RR9-54B-eLA-13-MC-032, all dated January 11, 2017, assessing and demanding from petitioner the payment of the alleged deficiency income tax, VAT, EWT, IAET, DST, and compromise penalty, in the total amount of ₱13,014,037.87, inclusive of the basic taxes, surcharges, interests, and compromise penalties, for the TY 2013.[8]

Petitioner filed a letter addressed to Regional Director Gerardo R. Flores of BIR Revenue Region No. 9, San Pablo City, on March 10, 2017.[9]

On October 19, 2017, petitioner received the Final Notice Before Seizure (FNBS) from the BIR dated October 5, 2017.[10]

Petitioner then received, on June 21, 2018, the WDL dated May 25, 2018, stating that there is due from petitioner the total amount of ₱13,014,037.87, representing its alleged deficiency income tax, VAT, EWT, IAET, DST, inclusive of the basic taxes, surcharges, interest, and compromise penalties for TY 2013.[11]

Petitioner filed the instant Petition for Review (with Urgent Motions to Lift Warrant of Distraint and/or Levy and For Suspension of Collection of Tax by the Issuance of Temporary Restraining Order and/or a Writ of Preliminary Injunction) on July 23, 2018.[12] The case was initially raffled to this Court's Second Division.

At the scheduled hearing on petitioner's Urgent Motions to Lift Warrant of Distraint and/or Levy and For Suspension of Collection of Tax by the Issuance of Temporary Restraining

[7] Pars. 7 and 13, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, pp. 757 and 758, respectively.
[8] Par. 8, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, p. 757.
[9] Pars. 9 and 14, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, pp. 757 and 758, respectively.
[10] Par. 10, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, p. 758.
[11] Par. 11, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, p. 758.
[12] Docket – Vol. I, pp. 10 to 32.

Order and/or a Writ of Preliminary Injunction held on August 8, 2018, petitioner's counsel manifested that he is not ready with his witness to support the said Urgent Motions, and without objection from respondent's counsel, the hearing thereon was reset to August 13, 2018.[13] At the hearing held on August 13, 2018, petitioner presented its two (2) witnesses, namely: (1) Mr. Percival Dumapoy,[14] petitioner's Hospital Administrator; and (2) Mr. Cyrus A. Atienza,[15] petitioner's Accounting Officer.[16]

Petitioner then filed its Formal Offer of Exhibits with Manifestation on August 15, 2018.[17] Respondent filed his Comment (Re: Petitioner's Formal Offer of Evidence) on August 17, 2018.[18]

On September 24, 2018, the present case was transferred from the Second Division to the First Division of this Court.[19]

Respondent posted his Answer with Opposition To Motion To Lift The Warrant of Distraint and/or Levy and Suspension of Collection of Tax by the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction on October 1, 2018.[20]

In the Resolution dated November 20, 2018,[21] the Court denied petitioner's Urgent Motions for lack of merit.

The Pre-Trial Conference was initially set on November 29, 2018,[22] but was cancelled,[23] upon motion by respondent.[24] In the Resolution dated November 27, 2018,[25] the case was referred for mediation to the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA), and the parties were ordered to appear thereat on January 15, 2019.

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[13] Minutes of the hearing held on, and Order dated, August 8, 2018, Docket – Vol. I, pp. 127 to 128.
[14] Exhibit "P-18", Docket – Vol. I, pp. 181 to 190.
[15] Exhibit "P-19", Docket – Vol. I, pp. 133 to 138.
[16] Minutes of the hearing held on, and Order dated August 13, 2018, Docket – Vol. I, pp. 132, and 232 to 233, respectively.
[17] Docket – Vol. I, pp. 235 to 245.
[18] Docket – Vol. I, pp. 329 to 330.
[19] *Order* dated September 24, 2018, Docket – Vol. I, p. 352.
[20] Docket – Vol. I, pp. 360 to 386.
[21] Docket – Vol. I, pp. 432 to 433.
[22] Resolution dated November 20, 2018, Docket – Vol. I, pp. 432 to 433; Refer also to Resolution dated October 12, 2018, Docket – Vol. I, pp. 418 to 419.
[23] Resolution dated November 27, 2018, Docket – Vol. I, pp. 547 to 548.
[24] Respondent's *Motion to Defer Pre-Trial Conference (Set on 29 November 2018)*, Docket – Vol. I, pp. 434 to 436.
[25] Docket – Vol. I, pp. 547 to 548.

In the meantime, petitioner's Pre-Trial Brief was submitted on November 26, 2018.[26]

On January 15, 2019, counsels for both parties appeared before the PMC-CTA.[27] However, no agreement to mediate was reached. Thus, the Court received the No Agreement to Mediate from the PMC-CTA on January 24, 2019.[28] The case was then set for Pre-Trial Conference on March 21, 2019.[29] The said schedule of the Pre-Trial Conference, however, was reset to June 6, 2019.[30]

The BIR Records of this case was transmitted by respondent on April 16, 2019.[31]

On June 3, 2019, respondent filed a Motion to Reset Pre-Trial Conference.[32] On the same date, Respondent's Pre-Trial Brief was filed.[33]

In the Order dated June 4, 2019,[34] the Court granted respondent's Motion to Reset Pre-Trial Conference, and then reset the Pre-Trial Conference to July 18, 2019.

On July 16, 2019, petitioner filed a Manifestation and Motion (To Cancel Pre-Trial Conference and to Withdraw Petition for Review),[35] informing the Court that it availed of the Tax Amnesty for Delinquent Accounts, pursuant to Republic Act (RA) No. 11213 otherwise known as the Tax Amnesty Act., with the BIR – Revenue District Office (RDO) No. 54-B in Kawit, Cavite, and requested the Court to allow the withdrawal of the present Petition for Review.

In the Order dated July 17, 2019,[36] the Court noted and granted, respectively, petitioner's Manifestation and Motion To Cancel Pre-Trial Conference, thereby cancelling the schedule of

[26] Docket – Vol. I, pp. 438 to 445.
[27] Docket – Vol. II, p. 551.
[28] Docket – Vol. II, p. 550.
[29] *Notice of Pre-Trial Conference* dated February 11, 2019, Docket – Vol. II, pp. 559 to 560.
[30] *Notice of Resetting* dated March 18, 2019, Docket – Vol. II, p. 566.
[31] *Compliance* dated April 15, 2019, Docket – Vol. II, pp. 569 to 570.
[32] Docket – Vol. II, pp. 576 to 579.
[33] Docket – Vol. II, pp. 581 to 585.
[34] Docket – Vol. II, p. 587.
[35] Docket – Vol. II, pp. 591 to 594.
[36] Docket – Vol. II, p. 604.

the latter; and granted respondent a period of ten (10) days from receipt thereof, to comment on the Motion to Withdraw Petition for Review.

On August 16, 2019, respondent filed his Comment with Manifestation, [37] attaching therewith as Annex "A", the Memorandum dated July 26, 2019 issued by Assistant Commissioner James H. Roldan of the BIR's Enforcement and Advocacy Service,[38] concluding that considering an appeal has been filed with this Court, petitioner is not considered a delinquent account and should not have been granted or is not entitled to tax amnesty. Petitioner then filed its Reply to (Respondent's Comment with Manifestation on Petitioner's Motion to Withdraw Petition for Review) on September 2, 2019.[39]

In the Resolution dated October 2, 2019,[40] the Court denied petitioner's Motion to Withdraw Petition for Review, and thus, set the case for Pre-Trial Conference anew on November 28, 2019.

On November 21, 2019, petitioner then filed a Manifestation and Motion for Leave to file An Amended Petition for Review and to Defer Pre-Trial Conference.[41] In the Order dated November 27, 2019,[42] the Court cancelled the schedule of the Pre-Trial Conference on November 28, 2019. Respondent filed his Opposition to (Petitioner's Manifestation and Motion for Leave to File An Amended Petition for Review and to Defer Pre-Trial Conference) on January 14, 2020.[43]

In the Resolution dated February 12, 2020,[44] the Court denied petitioner's Motion for Leave to file An Amended Petition for Review, and set the case for Pre-Trial Conference on March 19, 2020. However, the schedule of the said Pre-Trial Conference was again cancelled, pursuant to Supreme Court Administrative Circular No. 31-2020 dated March 16, 2020, and was moved to August 27, 2020.[45]

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[37] Docket – Vol. II, pp. 616 to 619.
[38] Docket – Vol. II, pp. 621 to 622.
[39] Docket – Vol. II, pp. 626 to 631 .
[40] Docket – Vol. II, pp. 634 to 636.
[41] Docket – Vol. II, pp. 637 to 640.
[42] Docket – Vol. II, p. 643.
[43] Docket – Vol. II, pp. 645 to 649.
[44] Docket – Vol. II, pp. 659 to 662.
[45] *Notice of Resetting* dated June 30, 2020, Docket – Vol. II, p. 663.

On August 24, 2020, petitioner's <u>Amended</u> Pre-Trial Brief was filed.[46]

The Pre-Trial Conference was finally held on August 27, 2020.[47] However, respondent's counsel failed to appear thereat, hence, petitioner's counsel moved in open court to declare respondent in default, which was granted by the Court.[48]

The Pre-Trial Order dated October 21, 2020 was then issued.[49]

As trial ensued, petitioner presented its documentary and testimonial evidence. Petitioner offered the testimony of its Accounting Officer, Mr. Cyrus A. Atienza.[50]

Petitioner filed its Formal Offer of Evidence on November 16, 2020.[51] In the Resolution dated December 15, 2020,[52] the Court admitted petitioner's exhibits, *except* for Exhibit "P-21", for failure of the exhibit formally offered and identified to correspond with the document actually marked.

Petitioner then filed its Memorandum on February 11, 2021.[53] Respondent, on the other hand, failed to file his memorandum.[54] Instead, respondent filed a Manifestation on March 2, 2021,[55] stating that he is adopting his Answer as his Memorandum. The Court noted the said Manifestation in the Order dated March 4, 2021.[56]

The case was submitted for decision on March 2, 2021.[57]

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[46] Docket – Vol. II, pp. 665 to 672.
[47] Minutes of the hearing held on, and Order dated, August 27, 2020, Docket – Vol. II, pp. 673 to 677.
[48] *Id.*
[49] Docket – Vol. II, pp. 751 to 760.
[50] Exhibit "P-33", Docket – Vol. II, pp. 682 to 694; Order dated November 3, 2020, Docket – Vol. II, pp. 763 to 764.
[51] Docket – Vol. II, pp. 766 to 777.
[52] Docket – Vol. II, pp. 825 to 826.
[53] Docket – Vol. II, pp. 827 to 842.
[54] Records Verification dated February 16, 2021 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 843.
[55] Docket – Vol. II, pp. 846 to 849.
[56] Docket – Vol. II, p. 851.
[57] Resolution dated March 2, 2021, Docket – Vol. II, p. 845.

THE ISSUE

The parties stipulated a singular issue for the resolution of the Court, to wit:

> "Whether or not petitioner is liable for deficiency income tax, value-added tax, expanded withholding tax, improperly accumulated earnings tax, documentary stamp tax and miscellaneous tax in the total amount of Php13,014,037.87, inclusive of the basic taxes, surcharges, interests, and compromise penalties, for the taxable year 2013."[58]

Petitioner's arguments:

In its original Petition for Review filed with the Court on July 23, 2018, petitioner averred that the Formal Letter of Demand (FLD) is void for having been issued by Assistant Regional Director, Edgar B. Tolentino, who allegedly does not have the authority to issue said official document under Section 7 in relation to Section 6 of the 1997 NIRC, as amended. In addition, petitioner claims that an Assistant Regional Director merely recommends the approval of regular audit reports but does not have the authority to approve audit reports involving assessment cases. Petitioner also submits that the right of respondent to issue a deficiency tax assessment for the first quarter of TY 2013 had already prescribed.

The foregoing arguments raised by petitioner in its Petition for Review, however, were superseded by its availment of the Tax Amnesty Act. Petitioner maintains that it is duly qualified to avail of the provisions of the Tax Amnesty Act because it had faithfully complied with all the requirements provided under Section 19 of said law, as implemented by Section 5 of Revenue Regulations (RR) No. 4-2019. It asserts that it duly submitted the Tax Amnesty Return on Delinquencies (BIR Form 2118-DA) and bank validated Acceptance Payment Forms for Tax Amnesty on Delinquencies (BIR Form No. 0621-DA) for income tax, VAT, EWT, IAET, and DST, for TY 2013 to BIR – RDO No. 54B, Kawit, West Cavite.

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[58] Issues to be Tried or Resolved, Pre-Trial Order dated October 21, 2020, Docket - Vol. II, p. 758.

Respondent's counter-arguments:

In his Answer to the Petition for Review, respondent contends that the Court has no jurisdiction over the instant case because the deficiency tax assessment for TY 2013 had already become final and executory for failure of petitioner to make a valid protest within the period prescribed under Section 228 of the 1997 NIRC, as amended. Respondent does not consider petitioner's motion for reconsideration as a valid protest because it merely contains a request for additional time to give an explanation to the findings embodied in the FLD. Respondent additionally counters that even if the Petition for Review filed in Court is considered an appeal by petitioner against the issuance of the WDL, the latter cannot be considered a "decision" denying the alleged protest which is appealable to the Court.

Respondent further argues that even if the Court has jurisdiction over the instant case, the deficiency tax assessment remains valid because the Assistant Regional Director had the authority to sign and issue the FLD during the said period. Respondent also counters that its right to assess petitioner for the first quarter of TY 2013 has not yet prescribed and that the corresponding assessment was validly made in accordance with law.

THE RULING OF THE COURT

We shall first tackle the issue of jurisdiction as primarily raised by respondent in his Answer.

Respondent is of the view that this Court has no jurisdiction to entertain the present Petition for Review, since the deficiency tax assessment had already become final and executory and that the WDL issued against petitioner is not a "decision" on the protest which is appealable to the Court.

We disagree with respondent's contention.

Section 7(a)(1) of RA No. 1125,[59] as amended by RA No. 9282,[60] provides as follows:

> "SEC. 7. *Jurisdiction.* — The CTA shall exercise:
>
> (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**;" (Emphasis supplied)

Based on the foregoing provision, the exclusive appellate jurisdiction of this Court is not limited to cases which involve decisions of respondent on matters relating to assessments or refunds.

In the case of *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue,*[61] the Supreme Court held that this Court has jurisdiction to review, on appeal, "other matters" arising under the 1997 NIRC, as amended, or other laws administered by the BIR which include the determination of whether the WDL issued by the BIR is valid, to wit:

> "The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. The wording of the provision is clear and simple. **It gives the CTA the jurisdiction to determine if the warrant of distraint and levy issued by the BIR is valid** and to rule if the Waiver of Statute of Limitations was validly effected.

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[59] AN ACT CREATING THE COURT OF TAX APPEALS.

[60] 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.

[61] G.R. No. 162852, December 16, 2004.

> This is not the first case where the CTA validly ruled on issues that did not relate directly to a disputed assessment or a claim for refund. In *Pantoja v. David*, **we upheld the jurisdiction of the CTA to act on a petition to invalidate and annul the distraint orders of the Commissioner of Internal Revenue**. Also, in *Commissioner of Internal Revenue v. Court of Appeals*, the decision of the CTA declaring several waivers executed by the taxpayer as null and void, thus invalidating the assessments issued by the BIR, was upheld by this Court." *(Emphasis supplied)*

Based on the foregoing jurisprudential pronouncements, this Court has the jurisdiction to act on a petition to invalidate or annul the distraint orders of the respondent. Correspondingly, this Court may look into the validity of the subject WDL issued by the BIR against petitioner, and in case it finds the same as unfounded or invalid, it may enjoin the enforcement thereof.

Petitioner further invokes the pertinent provisions of the Tax Amnesty Act (RA No. 11213) in support of its request to withdraw the instant Petition for Review. [62]

For easy reference, Title IV of the Tax Amnesty Act reads as follows:

> "SEC. 17. *Coverage.* – **There is hereby authorized and granted a tax amnesty herein called the Tax Amnesty on Delinquencies, which shall cover all national internal revenue taxes such as, but not limited to, income tax, withholding tax,** capital gains tax, donor's tax, **value-added tax,** other percentage taxes, excise tax and **documentary stamp tax** collected by the Bureau of Internal Revenue, including value-added tax and excise taxes collected by the Bureau of Customs for taxable year 2017 and prior years.
>
> **For purposes of this Act, the Tax Amnesty on Delinquencies may be availed of in the following instances:**
>
> **(a) Delinquencies and assessments, which have become final and executory**, including delinquent tax account, where the application for compromise has been requested on the basis of: (1) doubtful validity of the assessment; or (2) financial incapacity of the taxpayer, but the same was denied by the Regional Evaluation Board or the National Evaluation Board, as the case may be, on or before the Implementing Rules and Regulations take effect;

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[62] Docket – Vol. II, pp. 591 to 594. *om*

(b) Pending criminal cases with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the National Internal Revenue Code of 1997, as amended, with or without assessments duly issued;

(c) Tax cases subject of final and executory judgment by the courts on or before the Implementing Rules and Regulations take effect; and

(d) Withholding tax agents who withheld taxes but failed to remit the same to the Bureau of Internal Revenue.

SEC. 18. *Entitlement of Tax Amnesty on Delinquencies.* – **Any person may enjoy the immunities and privileges of the Tax Amnesty on Delinquencies and pay the following tax amnesty rates:**

(a) Delinquencies and assessments which have become final and executory...............40% of the basic tax assessed;

(b) Tax cases subject of final and executory judgment by the courts...............50% of the basic tax assessed;

(c) Pending criminal cases with criminal information filed with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the National Internal Revenue Code of 1997, as amended, with assessments duly issued and otherwise excluded in Titles II and III hereof...............60% of the basic tax assessed; and

(d) Withholding agents who withheld taxes but failed to remit the same to the Bureau of Internal Revenue...............100% of the basic tax assessed.

SEC. 19. *Availment of the Tax Amnesty on Delinquencies; When and Where to File and Pay.* – **Any person, natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall, within one (1) year from the effectivity of the Implementing Rules and Regulations of this Act, file with the appropriate office of the Bureau of Internal Revenue, which has jurisdiction over the residence or principal place of business of the taxpayer, a sworn Tax Amnesty on Delinquencies Return accompanied by a Certification of Delinquency. The payment of the amnesty tax shall be made at the time the Return is filed.**

Provided, **That the Revenue District Officer shall issue and endorse and Acceptance Payment Form**, in such form as may be prescribed in the Implementing Rules and

Regulations of this Act authorizing the authorized agent bank, or in the absence thereof, the revenue collection agent or municipal treasurer concerned, to accept the amnesty tax payment.

Provided, further, That the availment of the Tax Amnesty on Delinquencies and the issuance of the corresponding Acceptance Payment Form do not imply any admission of criminal, civil or administrative liability on the part of the availing taxpayer.

SEC. 20. *Immunities and Privileges.* – **The tax delinquency of those who avail of the Tax Amnesty on Delinquencies and have fully complied with all the conditions set forth in this Act and upon payment of the amnesty tax shall be considered settled** and the criminal case under Section 18(c) and its corresponding civil or administrative case, if applicable, be terminated, and **the taxpayer shall be immune from all suits or actions, including the payment of said delinquency or assessment, as well as additions thereto, and from all appurtenant civil, criminal, and administrative cases, and penalties under the National Internal Revenue Code of 1997, as amended**, as such relate to the taxpayer's assets, liabilities, networth, and internal revenue taxes that are subject of the tax amnesty, and from such other investigations or suits insofar as they relate to the assets, liabilities, networth and internal revenue taxes that are subject of the tax amnesty: *Provided,* **That any notices of levy, attachments and/or warrants of garnishment issued against the taxpayer shall be set aside pursuant to a lifting of notice of levy/garnishment duly issued by the Bureau of Internal Revenue or its authorized representative**: ***Provided, further*, That the Authority to Cancel Assessment shall be issued by the Bureau of Internal Revenue in favor of the taxpayer availing of the Tax Amnesty on Delinquencies within fifteen (15) calendar days from submission to the Bureau of Internal Revenue of the Acceptance Payment Form and the Tax Amnesty on Delinquencies Return. Otherwise, the duplicate copies, stamped as received, of the Acceptance Payment Form, and the Tax Amnesty on Delinquencies Return shall be deemed as sufficient proof of availment:** *Provided, furthermore,* That the Tax Amnesty on Delinquencies Return and the Acceptance Payment Form shall be submitted to the Revenue District Office after complete payment. **The completion of these requirements shall be deemed full compliance with the provisions of this Act.**

Upon full compliance with all the conditions set forth in this Title and payment of the corresponding tax on delinquency, the tax amnesty granted under this Title shall become final and irrevocable." (Emphases supplied)

Based on the foregoing provisions, the Tax Amnesty Act covers all national internal revenue taxes, such as income tax, withholding tax, VAT, and DST. The same may be availed of: (1) by filing with the appropriate office of the BIR a sworn Tax Amnesty on Delinquencies Return accompanied by a Certification of Delinquency, within a period of one (1) year from the effectivity of the Implementing Rules and Regulations of RA No. 11213; and (2) by paying, *inter alia*, 40% of the basic tax assessed, in case of delinquencies and assessments, which have become final and executory, and 100% of the basic tax assessed, in case of withholding tax agents who withheld taxes but failed to remit the same to the BIR.

Upon compliance with all the conditions set forth under the Tax Amnesty Act (RA No. 11213) and payment of the pertinent amnesty tax, the tax delinquency of the availing taxpayer shall be considered settled; and the taxpayer shall be immune from all suits or actions, including the payment of said delinquency or assessment, as well as additions thereto, and from all appurtenant civil, criminal, and administrative cases, and penalties under the 1997 NIRC, as amended.

Furthermore, any notices of levy, attachments and/or warrants of garnishment issued against the taxpayer shall be set aside, pursuant to the lifting of notice of levy/garnishment duly issued by the BIR or its authorized representative. In addition, the Authority to Cancel Assessment (ATCA) shall be issued by the BIR in favor of the taxpayer availing of the Tax Amnesty on Delinquencies, within fifteen (15) calendar days from submission to the BIR of the Acceptance Payment Form and the Tax Amnesty on Delinquencies Return. Otherwise, the duplicate copies, stamped as received, of the said Form and Return shall be deemed as sufficient proof of availment. Moreover, the same Form and Return shall be submitted to the Revenue District Office (RDO) after complete payment; and the completion of these requirements shall be deemed full compliance with the provisions of RA No. 11213.

Lastly, upon full compliance with all the conditions set forth in the foregoing provisions and payment of the corresponding tax on delinquency, the tax amnesty granted thereunder shall become final and irrevocable.

Guided by the foregoing provisions and based on the documents on record, this Court shall rule on this related issue as to whether or not petitioner qualified for and fully complied with the said tax amnesty law. Its resolution shall have a material and relevant impact on the adjudication of the main singular issue of this case.

Based on the aforequoted Section 17 of RA No. 11213, it is clear that there are two (2) instances where the Tax Amnesty Act may be availed of, to wit: "(d)elinquencies and assessments, which have become final and executory"; and "(w)ithholding tax agents who withheld taxes but failed to remit the same to the Bureau of Internal Revenue."

Relative to tax delinquencies and assessments, Section 2 of RR No. 4-2019[63] (the Implementing Rules and Regulations of RA No. 11213) reads, in part, as follows:

> "**SECTION 2. DEFINITION OF TERMS.** For purposes of these Regulations, the words used herein shall be defined as follows:
>
> A. **Delinquent Account** – shall pertain to a tax due from a taxpayer arising from the audit of the Bureau of Internal Revenue (BIR) which had been issued Assessment Notices that have become final and executory due to the following instances:
>
> 1. **Failure to pay the tax due on the prescribed due date provided in the Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) and for which no valid Protest, whether a request for reconsideration or reinvestigation, has been filed within thirty (30) days from receipt thereof**;
>
> 2. Failure to file an appeal to the Court of Tax Appeals (CTA) or an administrative appeal before the Commissioner of Internal Revenue (CIR) within thirty (30) days from receipt of the decision denying the request for reinvestigation or reconsideration; or
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> 3. Failure to file an appeal to the CTA within thirty (30) days from receipt of the Decision of the CIR denying the taxpayer's administrative appeal to the Final Decision on Disputed Assessment (FDDA).

[63] SUBJECT: Implementing Rules and Regulations of Republic Act No. 11213, Otherwise Known as the "Tax Amnesty Act", Providing for the Guidelines on the Processing of Tax Amnesty Application on Tax Delinquencies.

> B. **Assessment Notice** – refers to a notice issued to a taxpayer stating the amount and basis of the deficiency tax assessed. This term includes FAN/FLD and FDDA;
>
> xxx xxx xxx." *(Emphases supplied)*

On the basis thereof, a *"delinquent account"* shall pertain to a tax due from a taxpayer arising from the audit of the BIR and from which assessment notices have been issued that have become final and executory due to, *inter alia*, failure to pay the tax due on the prescribed due date provided in the FAN/FLD and for which no valid protest, whether a request for reconsideration or reinvestigation, has been filed, within thirty (30) days from receipt thereof.

Records show that the subject tax assessments have already become final and executory.

It is undisputed that on January 13, 2017, petitioner received the FLD, together with the Details of Discrepancies and the Assessment Notices Nos. RR9-54B-eLA-13-IT-032, RR9-54B-eLA-13 VT-032, RR9-54B-eLA-13-WE-032, RR9-549-eLA-13-IAET-032, RR9-54B-eLA-13-DA-032, and RR9-54B-eLA-13-MC-032, all dated January 11, 2017, assessing and demanding from petitioner the payment of alleged deficiency income tax, VAT, EWT, IAET, DST, and compromise penalty, in the total amount of ₱13,014,037.87, inclusive of the basic taxes, surcharges, interests, and compromise penalties, for the taxable year 2013.[64] However, petitioner failed to pay the said amount and to file any protest thereon, within thirty (30) days from the said date of receipt.

Consequently, the subject tax assessments have become final and executory. Notably, even respondent affirmed such fact.[65]

Moreover, petitioner was also assessed with unremitted withholding tax.

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[64] Par. 8, Summary of Admitted Facts, Pre-Trial Order dated October 21, 2020, Docket – Vol. II, p. 757.

[65] Refer to pars. 11, 14, 17 and 31, respondent's *Answer*, Docket – Vol. I, pp. 362, 364, 365, and 368, respectively.

Thus, this Court rules that petitioner's case is covered by the Tax Amnesty Act.

To stress, in order to avail of the Tax Amnesty Act under RA No. 11213, petitioner must, within one (1) year from the effectivity of the Implementing Rules and Regulations thereof, *i.e.*, RR No. 4-2019, or from April 24, 2019,[66] submit to the RDO No. 54-B, West Cavite, where it is registered, a Tax Amnesty on Delinquencies Return, accompanied by a Certificate of Delinquency, and pay the amnesty tax upon the filing of the said return.[67]

Under Revenue Memorandum Circular (RMC) No. 135-2019,[68] the BIR stated, *inter alia*, the procedures to be strictly complied with by any person who will avail of the subject tax amnesty, *viz.*:

> "Public hearings were conducted before the implementing rules and regulations were approved by the Secretary of Finance and therefore, it should be enforced accordingly for the efficient and orderly implementation of the tax amnesty program. In this regard, **the following procedures as prescribed under Revenue Memorandum Order (RMO) No. 23-2019 must be strictly complied by all concerned:**
>
> a. **Tax Amnesty Return (TAR) (BIR Form No. 2118-DA), completely and accurately accomplished and made under oath.**
>
> b. **Acceptance Payment Form (APF) or BIR Form 0621-DA must be <u>duly endorsed by the concerned BIR Officials</u>.**
>
> c. **Certificate of Tax Delinquencies (CTD) must be <u>issued and signed only by the authorized BIR officer</u> and not by the taxpayer who is availing of the tax amnesty."** *(Emphasis supplied)*

In support of its application for tax amnesty under the Tax Amnesty Act, petitioner presented the following documents during trial:

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[66] RR No. 11213 took effect on April 24, 2019, after fifteen (15) days from the publication thereof in the Malaya Business Insight on April 9, 2019. The availment period was extended until April 23, 2020, pursuant to RR No. 5-2020. Subsequently, the said period was further extended until December 31, 2020, by virtue of RR No. 15-2020. Thereafter, the same period was last extended until June 30, 2021, under RR No. 32-2020.

[67] Section 19, RA No. 11213.

[68] SUBJECT: Reiteration of the Prescribed Procedures in the Availment of the Tax Amnesty on Delinquencies (TAD) and Additional Clarification on Issues Raised Relative thereto.

1. Certificate of Tax Delinquencies/Tax Liabilities dated May 23, 2019 issued by the Revenue District Officer, Mr. Emmanuel S. Ferrer, Jr.;[69]

2. Tax Amnesty on Delinquencies Return (BIR Form No. 2118-DA), which is under oath and filed with RDO No. 54-B West Cavite on June 18, 2019;[70] and

3. Acceptance Payment Forms (BIR Form No. 0621-DA) which is stamped "received" by UCPB – Molino Branch on June 4, 2019, with accompanying bank deposit slips evenly dated, all machine validated by the same bank; and duly endorsed by the said Revenue District Officer Emmanuel S. Ferrer, Jr.[71]

The following information, *inter alia*, are indicated in the said Certificate of Tax Delinquencies/Tax Liabilities issued in favor of petitioner, for the period from January 1, 2013 to December 31, 2013,[72] to wit:

Tax Type	FAN/FLD/FDDA No.	Basic Tax	Total Penalties per FAN/FLD/FDDA	Total
Income tax	54B-eLA-13-IT	₱4,844,869.04	₱ 2,644,103.87	₱ 7,488,103.87
VAT	54B-eLA-13-VT	₱1,658,695.06	₱ 977,948.43	₱ 2,636,643.49
EWT	13-WE	₱ 441,608.72	₱ 262,787.43	₱ 704,396.15
IAET	13-IAE	₱1,001,796.34	₱ 596,135.65	₱ 1,848,377.32
DST	13-DS	₱ 126,987.21	₱ 107,660.79	₱ 234,648.00
MC	13-MC		₱ 101,000.00	₱ 101,000.00

Relative thereto, the said Tax Amnesty on Delinquencies Return and Acceptance Payment Forms submitted by petitioner have the following information, *viz.*:

Tax Amnesty on Delinquencies Return (BIR Form No. 2118-DA)				***Acceptance Payment Forms*** (BIR Form No. 0621-DA)
Tax Type	**Basic Tax**	**Tax Amnesty Rate**	**Amount of Tax Amnesty**	
Income tax	₱ 4,844,869.04	**40%**	₱1,937,947.62	**₱ 1,937,947.62**[73]
VAT	₱ 1,658,695.06		₱ 663,478.02	**₱ 663,478.02**[74]
IAET	₱ 1,001,796.34		₱ 400,718.54	**₱ 400,718.54**[75]
DST	₱ 126,987.21		₱ 50,794.88	**₱ 50,794.88**[76]

[69] Exhibit "P-23", Docket – Vol. II, p. 806.
[70] Exhibit "P-24", Docket – Vol. II, pp. 807 to 808.
[71] Exhibits "P-25" to "P-29-1", Docket – Vol. II, pp. 809 to 818.
[72] Exhibit "P-23", Docket – Vol. II, p. 806.
[73] Exhibits "P-25" and "P-25-1", Docket – Vol. II, pp. 809 to 810.
[74] Exhibits "P-26" and "P-26-1", Docket – Vol. II, pp. 811 to 812.
[75] Exhibits "P-28" and "P-28-1", Docket – Vol. II, pp. 815 to 816.
[76] Exhibits "P-29" and "P-29-1", Docket – Vol. II, pp. 817 to 818.

EWT	₱ 441,608.72	**100%**	₱ 441,608.72	**₱ 441,608.72**[77]

With the foregoing information, this Court finds that petitioner has properly availed of the tax amnesty granted under the Tax Amnesty Act.

Considering that petitioner is duly qualified to avail of the said tax amnesty under RA No. 11213, and has satisfied the conditions set forth thereunder as well as the payment of the pertinent amnesty taxes, its tax delinquencies or delinquent accounts for TY 2013 are considered settled, pursuant to Section 20 of the said law. Furthermore, petitioner is already immune from all suits or actions, including the payment of the said subject tax assessments, as well as additions thereto, among other immunities and privileges under the same provision. Consequently, the assailed WDL dated May 25, 2018 issued against petitioner for taxable year 2013, for deficiency taxes, including increments thereto, must already be cancelled and withdrawn.

WHEREFORE, premises considered, the present Petition for Review is **GRANTED**.

Accordingly, the WDL dated May 25, 2018 issued against petitioner for the taxable year 2013, for alleged deficiency income tax, VAT, EWT, IAET, DST, and miscellaneous tax, in the total amount of ₱13,014,037.87, inclusive of the basic taxes, surcharge, interests and compromise penalties, for taxable year 2013, is **CANCELLED and WITHDRAWN**, in the light of petitioner's availment of the tax amnesty granted under Title IV (Tax Amnesty on Delinquencies) of RA No. 11213, and as implemented by RR No. 4-2019, as amended. Consequently, respondent is **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

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[77] Exhibits "P-27" and "P-27-1", Docket – Vol. II, pp. 813 to 814.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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

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