

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SPECIAL FIRST DIVISION

**EAST WEST BANKING
CORPORATION,**

Petitioner,

- versus -

CTA CASE NO. 7035

Members:

**ACOSTA, Chairperson
BAUTISTA, and
CASANOVA, JJ.**

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

Promulgated:

JUL 23 2010 ; 10:04 AM

X-----X

AMENDED DECISION

BAUTISTA, JJ:

On October 19, 2009, petitioner filed its *Manifestation and Motion* praying for this Court to declare moot and/or *functus officio* the *Decision* promulgated on May 16, 2008 and the *Resolution* dated July 8, 2008, by reason of its alleged complete and final settlement of its tax liabilities subject of the instant case.

The dispositive portion of the assailed *Decision* states as follows:

"IN VIEW OF THE FOREGOING, the subject Petition for Review is hereby **DISMISSED** for lack of merit. Accordingly, petitioner is hereby **ORDERED TO PAY** respondent the amount of P36,498,834.53 representing deficiency documentary stamp tax for the taxable year 2000 and



the aggregate amount of P46,466,381.76 representing deficiency gross receipts and documentary stamp taxes for the taxable year 2001, plus 20% delinquency interest per annum pursuant to Section 249(C)(3) of the National Internal Revenue Code from October 1, 2004 and August 2, 2004, respectively, until the amount is fully paid."

SO ORDERED."

On the other hand, the *Resolution* promulgated on July 8, 2008 merely noted petitioner's *Manifestation* filed on June 3, 2008, since the attached Termination Letters, which were submitted to substantiate petitioner's manifestation that it already filed an application for abatement under Revenue Regulations No. 15-2006, were mere machine copies of the original documents.

In its *Manifestation and Motion*, petitioner reiterated its earlier manifestation that the tax assessments subject of the petition have been rendered closed and terminated pursuant to petitioner's duly approved application for abatement under Revenue Regulations No. 15-2006. The applications for abatement were approved by respondent on April 8, 9, and 16, 2008. Petitioner further manifested that the original copies of the Termination Letters, attached as Annexes "A", "B", and "C", will be presented during the hearing of the *Manifestation and Motion*.

Consequently, petitioner presented the said annexes and had the same marked and identified before the Court. After the filing of petitioner's



*Supplemental Formal Offer of Evidence*¹, the following exhibits were admitted in a *Resolution* dated June 21, 2010:

1. Termination Letter dated April 8, 2008 (Exhibit "H");
2. Termination Letter dated April 9, 2008 (Exhibit "I"); and
3. Termination Letter dated April 16, 2008 (Exhibit "J").

Perusal of the foregoing exhibits reveals that the Termination Letters dated April 8, 2008, April 9, 2008, and April 16, 2008 covered Assessment Nos. DST-2-00-000049, DST-01-000089, and GRT-01-000030, respectively; which are the subject matter of the present *Petition for Review*. The Termination Letters were issued in view of petitioner's application and compliance with respondent's Abatement Program under Revenue Regulations No. 15-2006.

Evidently, petitioner was able to comply with the requirements of the Abatement Program under Revenue Regulations No. 15-2006, the pertinent portions of which read:

"SECTION 1. *Purpose.* - These regulations prescribe the guidelines for the availment by taxpayers of the opportunity to settle their delinquent accounts or assessments, preliminary and final, disputed or not, by way of application for abatement of all penalties, including surcharge and interest, under Section 204 of the National Internal Revenue Code (NIRC) of 1997 as another step towards the collection and reduction of the Bureau's Accounts Receivables and pending assessments.

SECTION 2. *Coverage.* - The following cases shall be covered hereof:

xxx

xxx

xxx

f.) Civil tax cases being disputed before the Department of Justice and the courts, e.g., MTC,

¹ Docket, pp. 396-401



RTC, CTA, CA and SC including decided cases which are not yet final and executory except those cases where the Presidential Commission on Good Government (PCGG) has an interest and/or there is a need to coordinate with the PCGG;

xxx

xxx

xxx

SECTION 4. *Who May Avail.* – **Any person/taxpayer, natural or juridical, may settle thru this abatement program any delinquent account or assessment which has been released as of June 30, 2006, by paying an amount equal to One Hundred Percent (100%) of the Basic Tax assessed** with the Accredited Agent Bank (AAB) of the Revenue District Office (RDO)/Large Taxpayers Service (LTS)/Large Taxpayers District Office (LTDO) that has jurisdiction over the taxpayer. In the absence of an AAB, payment may be made with the Revenue Collection Officer/Deputized Treasurer of the RDO that has jurisdiction over the taxpayer. **After payment of the basic tax, the assessment for penalties/surcharge and interest shall be cancelled by the concerned BIR Office** following existing rules and procedures. **Thereafter, the docket of the case shall be forwarded to the Office of the Commissioner, thru the Deputy Commissioner for Operations Group, for issuance of Termination Letter."** (*Emphasis supplied*)

The effect of compliance with the requirements of the Abatement Program is stated under Section 4 of Revenue Regulations No. 15-2006, viz.:

"(A)fter payment of the basic tax, the assessment for penalties/surcharge and interest shall be cancelled by the concerned BIR Office following existing rules and procedures. **Thereafter, the docket of the case shall be forwarded to the Office of the Commissioner, thru the Deputy Commissioner for Operations Group, for issuance of Termination Letter."** (*Emphasis supplied*)

WHEREFORE, premises considered, this Court's *Decision* dated May 16, 2008 is hereby **AMENDED**. Accordingly, the Formal Letter of Demand



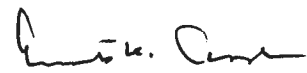
with Assessment Notice No. DST-2-00-000049, assessing petitioner of deficiency Documentary Stamp Tax on Special Savings Deposit in the total amount of P35,100,323.90, inclusive of surcharge, interest, and compromise penalty for taxable year 2000; Assessment Notice No. DST-01-000089 assessing petitioner of deficiency Documentary Stamp Tax on Special Savings Account in the total amount of P45,692,740.92, inclusive of surcharge, interest, and compromise penalty for taxable year 2001; and Assessment Notice No. GRT-01-000030, assessing petitioner of deficiency Gross Receipts Tax on its onshore income from its Foreign Currency Depository Units in the total amount of P773,640.84, inclusive of surcharge, interest, and compromise penalty for taxable year 2001 are hereby **CANCELLED** and **SET ASIDE**, in view of petitioner's availment of and qualification for the Abatement Program under Revenue Regulations No. 15-2006.

SO ORDERED.



LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:



ERNESTO D. ACOSTA
Presiding Justice



CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

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


ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division