REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

BAY RESOURCES AND DEVELOPMENT CORPORATION, Petitioner,	**CTA CASE NO. 9612**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson, and* **BACORRO-VILLENA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 13 2021 1:45 pm

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JUDGMENT BASED ON COMPROMISE AGREEMENT

CASTAÑEDA, JR., *J.*:

For this Court's resolution are the following:

1. Philippine Mediation Center-Court of Tax Appeals' (PMC-CTA) **Mediator's Report** of Successful Settlement, filed on September 21, 2020;

2. parties' **Joint Motion to Render Judgment based on Compromise Agreement**, filed on October 19, 2020;

3. petitioner's **Motion for Extension of Time to File Compliance**, filed on March 22, 2021; and

4. respondent's **Compliance**, filed through registered mail on March 25, 2021 and received by the Court on May 20, 2021. Jr

On June 7, 2017, petitioner filed a Petition for Review, praying for the cancellation of its deficiency income tax, value added tax, expanded withholding tax, and compromise penalty for taxable year ending December 31, 2009, in the following amounts[1]:

	Basic	Interest up to 6.30.15	Compromise	Total
I. Income Tax	P 5,609,573.22	P 5,846,251.10	P 50,000.00	P 11,505,824.32
II. VAT	953,364.76	1,035,380.25	12,000.00	2,000,745.02
III. EWT	26,251.56	28,653.76	3,000.00	57,905.32
Total	P 6,589,189.54	P 6,910,285.11	P 65,000.00	P 13,564,474.65

In the Resolution dated December 5, 2019, the instant case was referred to the PMC-CTA for mediation.[2]

On September 21, 2020, the PMC-CTA filed the Mediator's Report of a Successful Settlement, with attachments.

Later, on October 19, 2020, the parties filed a Joint Motion to Render Judgment Based on Compromise Agreement, attaching thereto the Judicial Compromise Agreement marked as "Annex A".

Subsequently, in the November 6, 2020 Resolution, the Court noted that there is nothing in the records submitted by the parties that would indicate the date of execution of the Compromise Agreement as well as the proof of approval of the same by a majority of the members of the National Evaluation Board (NEB). Hence, the Court ordered the parties to submit the original or certified true copy of the proof of NEB's approval by majority of its members and to confirm the date of execution of the said Compromise Agreement.

Pending submission of the aforesaid requirements, the resolution of the Mediator's Report and the parties' Joint Motion to Render Judgment Based on the Compromise Agreement was held in abeyance.

Following several motions for extension of time to file compliance successively filed by both parties and which were granted by the Court, respondent later filed his Compliance on February 24, 2021, attaching thereto a certified true copy of the Certificate of Availment as proof that the Compromise Agreement was approved by

[1] As found in the Final Decision on Disputed Assessment (FDDA) dated July 1, 2015 attached in the Petition for Review as Annex "J", Docket - Vol. I, pp. 132-134.
[2] Docket Vol. III, p. 832.

the NEB. Respondent also mentioned that the Compromise Agreement was signed on September 1, 2020.

However, in another Resolution dated March 12, 2021, the Court observed that respondent failed to attach the signature page showing the approval signatures of majority of all the members of the NEB. Hence, the parties were directed to submit the signature page showing the approval signatures of the members of the NEB within five (5) days from receipt thereof.

Thereafter, petitioner filed another Motion for Extension of Time to File Compliance on March 22, 2021, seeking for an additional period of fifteen (15) days or until April 6, 2021 within which to comply with the directive of the Court. Petitioner reiterated its previous manifestation that it will need more time to coordinate with the Litigation Division and Accounts Receivable Monitoring Division of the Bureau of Internal Revenue (BIR-ARMD) to be able to secure a copy of the signature page of the Certificate of Availment.

On the other hand, respondent filed his Compliance dated March 25, 2021, submitting the certified true copy of the signature page of the Certificate of Availment showing the fact that the subject compromise agreement on the deficiency tax assessments of petitioner for taxable year 2009 was approved by the NEB.

Considering the submission of the above document, petitioner's **Motion for Extension of Time to File Compliance** is rendered **MOOT** while respondent's **Compliance** is hereby **NOTED**.

Now, proceeding to the PMC-CTA's Mediator's Report of Successful Settlement and parties' Joint Motion, the pertinent portions of the subject Compromise Agreement is quoted as follows:

"COMPROMISE AGREEMENT

Undersigned parties, assisted by their respective counsels, Petitioner **BAY RESOURCES AND DEVELOPMENT CORPORATION**, with address at 2/F Aseana Power Station Building, Aseana City, President Diosdado Macapagal Boulevard corner Bradco Avenue, Tambo, Paranaque City, represented herein by **SALVADOR LLANILLO & BERNARDO**, and Respondent

COMMISSIONER OF INTERNAL REVENUE, with address at 511 BIR National Office Building, BIR Road, Diliman, Quezon City, Philippines, represented by the Litigation Division.

AGREE as follows:

WHEREAS, on 7 June 2017, a Petition for Review was filed by Petitioner challenging the validity of Respondent's assessments for deficiency taxes for taxable year (TY) 2009. Under Respondent's letter dated 12 July 2016 denying Petitioner's Administrative Appeal, Petitioner was required to pay the amount of **Fifteen Million Five Hundred Fifty Thousand Two Hundred Fifty-Seven Pesos and Eighty Centavos (Php15,550,257.80)** representing alleged deficiency taxes, inclusive of interest and compromise penalties.

WHEREAS, during the mediation proceedings before the Philippine Mediation Center – Court of Tax Appeals, Petitioner offered to amicably settle the case for **Three Million Three Hundred Seven Thousand Seven Hundred Twenty Pesos and Fifty-Five Centavos (Php3,307,720.55)** to avoid prolonged litigation, as authorized by A.M. No. 11-1-05-SC-PHILJA;

NOW, THEREFORE, in view of the limitation in Section 204 of the 1997 National Internal Revenue Code, Petitioner has offered and Respondent has accepted the amount of **Three Million Three Hundred Seven Thousand Seven Hundred Twenty Pesos and Fifty-Five Centavos (Php3,307,720.55)**, representing fifty percent (50%) of the basic tax assessed, as full satisfaction of the TY 20009 tax assessment subject to the approval of the Honorable Court of Tax Appeals.

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Article 1306 of the Civil Code of the Philippines provides that contracting parties may establish such stipulations, clauses, terms, and conditions, as they may deem convenient, provided that they are not contrary to law, morals, good customs, public order, or public policy. A compromise agreement is a contract whereby the parties make reciprocal concessions, avoid litigation, or put an end to one already commenced. It is an accepted, even desirable and encouraged, practice in courts of law and administrative tribunals.[3]

A compromise agreement is a contract whereby the parties make reciprocal concessions in order to resolve their differences and, thus, avoid or put an end to a lawsuit. They adjust their difficulties in the manner they have agreed upon, disregarding the possible gain in litigation and keeping in mind that such gain is balanced by the danger of losing. It must not be contrary to law, morals, good customs and public policy, and must have been freely and intelligently executed by and between the parties. A compromise agreement may be executed in and out of court. Once a compromise agreement is given judicial approval, however, it becomes more than a contract binding upon the parties. Having been sanctioned by the court, it is entered as a determination of a controversy and has the force and effect of a judgment[4].

In this regard, Section 204 (A) of the National Internal Revenue Code of 1997 (1997 NIRC) provides that for cases other than financial incapacity, the minimum compromise rate is forty percent (40%) of the basic assessed tax. And in case the basic tax exceeds P1,000,000.00 or where the settlement offered is less than the said prescribed minimum rates, the compromise must be approved by the Evaluation Board, which is composed of respondent and the four (4) Deputy Commissioners of the BIR.

Relative thereto, Section 6 of Revenue Regulations (RR) No. 30-2002, as last amended by RR No. 9-2013, provides:

> "SEC. 6. APPROVAL OF OFFER OF COMPROMISE. — Except for offers of compromise where the approval is delegated to the REB pursuant to the succeeding paragraph, all compromise settlements within the jurisdiction of the National Office (NO) shall be approved by a majority of all the members of the NEB composed of the Commissioner and the four (4) Deputy Commissioners. All decisions of the NEB, granting the request of the taxpayer or favorable to the taxpayer, shall have the concurrence of the Commissioner. ɤc

[3] *California Manufacturing Company, Inc. vs. The City of Las Piñas and the Hon. Rizal Y. Del Rosario, City Treasurer,* G.R. No. 178461, June 22, 2009.
[4] *David M. David vs. Federico M. Paragas, Jr.,* G.R. No. 176973, February 25, 2015.

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> The compromise offer shall be paid by the taxpayer upon filing of the application for compromise settlement. No application for compromise settlement shall be processed without the full settlement of the offered amount. In case of disapproval of the application for compromise settlement, the amount paid upon filing of the aforesaid application shall be deducted from the total outstanding tax liabilities."

Based from the foregoing, a compromise settlement falling within the jurisdiction of the NEB is valid if the same was approved by a majority of all the members of the NEB, and that there was a full settlement of the offered amount.

Considering the Judicial Compromise Agreement submitted by the parties,[5] the Certificate of Availment (Compromise Settlement), certifying that petitioner's application for compromise settlement of deficiency Income, Value-Added and Expanded Withholding Taxes amounting to P15,550,257.80 under the FDDA dated July 1, 2015, covering taxable period December 31, 2009, (the subject matter of the instant case), has been approved by the NEB,[6] with the attached signature page,[7] likewise showing the approval signatures of four (4) Deputy Commissioners and of the Respondent, as well as the payment forms showing proof of complete payment of the compromise amount and the Secretary's Certificate showing the authority of the person who signed the compromise agreement for petitioner[8], the Court finds the same in order and in compliance with the established laws, rules and regulations. Hence, the Court approves the same.

WHEREFORE, petitioner's **Motion for Extension of Time to File Compliance** is considered **MOOT**, while respondent's **Compliance** is **NOTED**.

In view of the foregoing, and considering the PMC-CTA's **Mediator's Report** of Successful Settlement, the parties' **Joint**

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[5]Attached to the parties' Joint Motion to Render Judgment Based on Compromise Agreement; also attached in the PMC-CTA's Mediator's Report of Successful Settlement.
[6]Attached to respondent's Compliance filed on February 24, 2021.
[7] Attached to respondent's Compliance filed by registered mail on March 25, 2021.
[8] Attached to the PMC-CTA's Mediator's Report of Successful Settlement filed on September 21, 2020.

Motion to Render Judgment based on Compromise Agreement is **GRANTED**.

Accordingly, the **Judicial Compromise Agreement** entered into by the parties is **APPROVED** and judgment is hereby rendered in accordance therewith. The parties are **ENJOINED** to faithfully comply with all the terms and conditions set forth therein.

Consequently, this case is now deemed **CLOSED AND TERMINATED**.

SO ORDERED.

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

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest 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.

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

CERTIFICATION

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 Judgment were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice