REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,* -versus-	**CTA Crim. Case No. O-749** For: Violation of Section 255 in relation to Sections 253 & 256 of the National Internal Revenue Code of 1997, as amended.
KAMISARI SULIT SHOPPING STORES, INC., JOSE XAVIER B. GONZALES and MARIA OLIVIA C. GONZALES, No.3 Urbano Velasco Avenue, Pinagbuhatan, Pasig City (At Large) *Accused.*	Members: **CASTAÑEDA, JR.,** *Chairperson,* **MINDARO-GRULLA,** *and* **BACORRO-VILLENA** Promulgated: FEB 12 2020 9:00 a.m.

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RESOLUTION

For Resolution of this Court is accused's **"Manifestation with Motion for Dismissal of the Case"** filed on November 13, 2019 with prosecution's **"Comment"** filed on November 18, 2019.

In the motion, accused allege that they availed of the tax amnesty for tax delinquencies in accordance with Republic Act (RA) 11213 or the "Tax Amnesty Act" and Revenue Regulations (RR) No. 4-2019. In the prosecution's comment, it was stated that the tax amnesty applied for was indeed approved.

In view of the foregoing, the case was set for hearing on December 2, 2019 for purposes of presentation of the original documents pertaining to the Application for Tax Amnesty and the subsequent approval thereof. However, both counsels failed to appear on said date despite due notice. Consequently, the case was reset for hearing on January 20, 2020.

On said date, counsel for the accused brought the original documents supporting the Application for Tax Amnesty as well as the approval thereof. Subsequently thereafter, the Court issued an Order taking into consideration the Motion to Dismiss filed by the accused and the oral manifestation of the prosecution that he joins the said motion.

We RESOLVE.

A tax amnesty operates as a general pardon or intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law. It is an absolute forgiveness or waiver by the government of its right to collect what is due and to give tax evaders who wish to relent a chance to start with a clean slate.[1]

RA 11213 grants Tax Amnesty on Delinquencies (TAD) covering all national internal revenue taxes collected by the Bureau of Internal Revenue (BIR) for taxable year 2017 and prior years.

Section 17(b), Title IV of RA 11213 categorically states who are covered by the Tax Amnesty Act, *viz:*

> "SECTION 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.
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> For purposes of this Act, the Tax Amnesty on Delinquencies may be availed of in the following instances:

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[1] Commissioner of Internal Revenue v. Transfield Philippines, Inc., G.R. No. 211448, January 16, 2019.

xxx xxx xxx

> (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;"

Relative thereto, RR Nos. 4-2019, particularly, Section 3(B), which implements the provisions of RA 11213 reiterates as follows:

> "SECTION 3. COVERAGE. All persons, whether natural or juridical, with internal revenue tax liabilities covering taxable year 2017 and prior years, may avail of Tax Amnesty on Delinquencies within one (1) year from the effectivity of these Regulations, under any of the following instances:
>
> xxx xxx xxx
>
> B. With pending criminal cases with the DOJ/ Prosecutor's Office or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the Tax Code, as amended, with or without assessments duly issued;"

Concomitantly, the implementing rules and regulations provide that, in order to avail the TAD, the following documentary requirements must be secured and submitted before the BIR. To wit:

1. Tax Amnesty Return (TAR) (BIR Form No. 2118-DA);

2. Acceptance Payment Form (APF) (BIR Form No. 0621 - DA), which must be either duly validated by the Authorized Agent Banks (AABs) or duly stamped "received", with the accompanying bank deposit slip duly validated by the concerned AABs or accompanied with Revenue Official

Receipt (ROR) issued by the Revenue Collection Officers (RCOs);

3. Certificate of Tax Delinquencies/Tax Liabilities issued by the concerned BIR office; and

4. If applicable, in case of withholding tax liabilities arising from failure of the withholding agent to remit the tax withheld, a copy of the assessment found in either the Final Assessment Notice (FAN)/Final Decision on Disputed Assessment (FDDA), Preliminary Assessment Notice (PAN), Notice of Informal Conference (NIC) or equivalent document.

Applying the foregoing in the case at bar, considering that accused are criminally charged under Section 255, in relation to Sections 253 and 256 of the National Internal Revenue Code of 1997 (NIRC), which pertains to their tax delinquencies for taxable year 2008, it is without a doubt that they fall within the coverage of the law. Thus, they may avail of the TAD.

We now determine if accused complied with the documentary requirements provided for under the rules. A review of the records reveals that the afore-mentioned documents were submitted by the accused:

1. BTR- BIR Deposit Slip from Authorized Agent Bank;[2]

2. Tax Amnesty Return;[3]

3. Acceptance Payment Form;[4] and

4. Certificate of Tax Delinquencies.[5]

Based on the foregoing, it cannot be denied that accused complied with all the required documentation mandated by the law and the rules. Likewise, there was no objection or any opposition from the prosecution as to the accused's availment of the tax amnesty, in fact, prosecution admitted that the application for TAD was indeed approved.

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[2] Docket, Manifestation with Motion for Dismissal of Case, Annex "A".
[3] *Ibid.*, Annex "B".
[4] *Ibid.*, Annex "C".
[5] *Ibid.*, Annex "D".

All told, the Court deems it necessary to grant the motion of the accused and dismiss the case.

Lastly, it bears stressing that delinquencies for which taxpayers have availed themselves of the amnesty are considered settled, and the criminal case in connection therewith and its corresponding civil or administrative case, if applicable, are terminated.

WHEREFORE, premises considered, the "Manifestation with Motion for Dismissal of the Case" is hereby **GRANTED**. Accordingly, the instant case is hereby **DISMISSED** in view of accused's availment of the Tax Amnesty under RA 11213.

SO ORDERED.

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

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice