REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**C.T.A. CRIM CASE NO. O-250** For: Violation of Section 255, in relation to Sections 253 (d) and 256 of the NIRC of 1997, as amended
-versus-	Members: BAUTISTA, Chairperson, PALANCA-ENRIQUEZ, and COTANGCO-MANALASTAS, JJ.
VICTOR A. TAMBUNTING, *Accused.*	**Promulgated:** JUL 30 2012 ~~ 3:07p.m.

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RESOLUTION

PALANCA-ENRIQUEZ, J.:

On February 28, 2012, accused filed a "Manifestation and Motion" stating therein that he availed of the Tax Amnesty Program of the BIR under *RA 9480*, as implemented by *Department Order No. 29-07* and further implemented by *Revenue Memorandum Circular No. 69-2007*, and he has paid the amnesty tax in the amount of P25,000.00. Thus, he is considered immune from payment of taxes as well as from civil, criminal or administrative penalties under the Tax Code of 1997, and prays that the case be dismissed.

On March 27, 2012, the Court granted the public prosecutor ten (10) days to file his comment to accused's "Manifestation/Motion".

On April 24, 2012, the public prosecutor filed a "Motion to Admit Comment" with attached "Comment (To the Accused's Manifestation/Motion)" alleging that accused has not furnished him certified copies of the Payment Form, Tax Amnesty Deposit Slip, Notice of Availment of Tax Amnesty, Tax Return Form and Statement of Assets, Liabilities and Networth and BIR Certification proving that accused availed of the Tax Amnesty and paid the corresponding amnesty fee.

On June 11, 2012, the Court ordered the accused to submit the original or certified true copies of the following documents in relation to his claim that he availed of the tax amnesty on October 22, 2007 under *RA 9480*:

a) Notice of Availment of Tax Amnesty;
b) Statements of Assets, Liabilities and Networth (SALN);
c) Tax Amnesty Return (BIR Form No. 2116);
d) Tax Amnesty Payment Form (BIR Form No. 0617); and

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e) Landbank Deposit Slip.

On June 27, 2012, the accused filed his "Compliance" with the Resolution dated June 11, 2012 and submitted the original copies of the following:

1) Notice of Availment of Tax Amnesty;
2) Statements of Assets, Liabilities and Networth (SALN);
3) Tax Amnesty Return (BIR Form No. 2116);
4) Tax Amnesty Payment Form (BIR Form No. 0617); and
5) Landbank Deposit Slip.

As regards the prosecution's "Motion to Admit Comment", the same is hereby granted, and the comment is admitted.

As to accused's motion, we find the same meritorious.

RA 9480 grants a tax amnesty that shall cover all national internal revenue taxes for the taxable year 2005 and prior years with or without assessment duly issued therefore, that have remained unpaid as of December 31, 2005, except those persons and cases enumerated under *Section 8* of the Act *(Section 1 thereof)*. Thus, any person, natural or juridical, who wishes to avail himself of the tax amnesty authorized and granted under this Act shall file with the BIR a notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth as of December 31, 2005, in

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such form as may be prescribed in the implementing rules and regulations of this Act, and pay the applicable amnesty tax within six months from the effectivity of the IRR *(Section 2 thereof)*.

Those who availed themselves of the tax amnesty and have fully complied with all its conditions shall be entitled to immunities and privileges, one of which is, the taxpayer shall be immune from the payment of taxes, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the *NIRC of 1997, as amended*, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years *(Section 6 (a) of RA 9480)*.

On the other hand, *Section 8 of RA 9480* provides:

> "**SEC. 8.** Exceptions.— The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act:
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> a. Withholding agents with respect to their withholding tax liabilities;
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> b. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
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> c. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;

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d. Those with pending cases filed in court involving violation of Anti-Money Laundering Law;

e. Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exaction and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and

f. Tax cases subject of final and executory judgment by the courts."

Records show that accused was assessed of deficiency income tax, minimum corporate income tax, VAT, DST, and DST on pledges covering taxable year 2000. On October 22, 2007, accused availed of the Tax Amnesty, while the information for Violation of *Section 255*, in relation to *Sections 253 (d)* and *256 of the NIRC of 1997, as amended*, docketed as CT.A. Crim. Case No. O-250, was filed with this Court on November 8, 2011.

Considering that the assessment for deficiency tax, minimum corporate income tax, VAT, DST, and DST on pledges are national internal revenue taxes covered by the Tax Amnesty Program under *RA 9480*, and said deficiency assessments pertain to calendar year 2000, and accused does not fall under any of the above enumerated exceptions since he availed of the Tax Amnesty on October 22, 2007, prior to the filing of the Information in this case on November 8, 2011, and considering further that accused has complied with the conditions imposed under *Section 2 of RA 9480*, and with the Resolution of this Court dated June 11, 2012, pursuant, therefore, to *Section 6 of RA 9480,* accused is immune from payment of taxes, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the *NIRC of 1997, as amended*, arising from his failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.

For all the foregoing, we have no alternative but to grant accused's motion.

WHEREFORE, premises considered, the instant case is hereby **DISMISSED** solely in view of accused's availment of the Tax Amnesty under *RA 9480*.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice