REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

ABRAHAM P. CUARESMA,
Accused.

CTA CRIM. CASE NO. O-797

For: Violation of Section 255 of the NIRC of 1997, as amended

Members:

CASTAÑEDA, JR., *Chairperson,*
MINDARO-GRULLA, *and*
BACORRO-VILLENA, *JJ.*

Promulgated: FEB 24 2020
11:01 a.m.

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RESOLUTION

For the Court's resolution is accused's **Manifestation with Motion for Dismissal of the Case**, filed on 02 December 2019, with **Comment (To Accused's Manifestation with Motion for Dismissal of the Case dated November 28, 2019)**, filed on 13 December 2019.

Accused earlier manifested that, in relation to his pending case before this Honorable Court (for failure to supply correct and accurate information in his income tax return for 2010 resulting in basic deficiency income tax totaling to ₱2,846,694.58), he availed of the tax amnesty for tax delinquencies pursuant to Section 17 of Tax Amnesty on Delinquencies (Title IV) of Republic Act (**RA**) No. 11213[1] or the

[1] An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2017 and Prior Years with Respect to Estate Tax, Other Internal Revenue Taxes, and Tax on Delinquencies
...
Section 1. *Short Title.* – This Act shall be known as the "Tax Amnesty Act".

x - x

Tax Amnesty Act and as reiterated in Section 3 of Revenue Regulations (**RR**) 4-2019[2], to wit:

> . . .
> **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.
>
> For purposes of this Act, the Tax Amnesty on Delinquencies may be availed of in the following instances:
>
> . . .
> (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[.]
> . . .
>
> *Section 3 of RR 4-2019*
>
> **Sec. 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:
> . . .
>
> 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[.]
> . . .

Accused thus prays for the dismissal of the instant case based on his availment of the amnesty for tax delinquencies. In support of his motion, accused attached photocopies of the following documents:

1. Payment Slip from Authorized Agent Bank ("**AAB**");
2. Tax Amnesty Return ("**TAR**");
3. Acceptance Payment Form ("**APF**"); and,

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2 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.

x - x

4. Certificate of Tax Delinquencies.

In its Comment, plaintiff manifested that upon its request for verification from Revenue District Officer Leticia C. Arabit of Revenue District Office (**RDO**) No. 28, Novaliches (East NCR), a Certification dated 10 December 2019 confirms that accused Abraham P. Cuaresma has settled his tax liabilities subject of the instant case under the Tax Amnesty Act amounting to sixty percent (60%) of the basic tax liabilities and paid a total amount of ₱2,626,422.80 comprising for deficiency income tax and VAT.

Plaintiff attached the photocopies of the following:

1. RR No. 4-2019;
2. Memorandum Request together with its attachments; and,
3. Certification dated 10 December 2019.

In the 16 January 2020 Resolution, the Court noted accused's manifestation and ordered him to submit the originals or certified true copies of the documentary requirements enumerated in Section 5 of RR 4-2019 within ten (10) days from receipt of the order, as follows:

> ...
>
> 1. Tax Amnesty Return (TAR) (BIR Form No. 2118-DA, Annex "A"), completely and accurately accomplished and made under oath;
>
> 2. Acceptable Payment Form (APF) (BIR Form No. 0621-DA, Annex "B") duly validated by the Authorized Agent Banks (AABs) or APF duly stamped "received" with accompanying bank deposit slip duly validated by the concerned AABs or Revenue Official Receipt (ROR) issued by the Revenue Collection Officers (RCOs);
>
> 3. Certificate of Tax Delinquencies/Tax Liabilities issued by concerned BIR offices (Annex "C"); and[,]
>
> 4. In case of applications under Section 3(A)(2)[3] of these Regulations, a copy of the assessment found in the FAN/FDDA: *Provided that*, in cases of applications under Section 3(D)[4], either delinquent account or not, with or without FAN/FDDA, the Preliminary Assessment Notice

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[3] **SECTION 3. COVERAGE.**

...

A. Delinquent Accounts as of the effectivity of these Regulations, including the following:

...

2. Delinquent Withholding Tax liabilities arising from non-withholding tax[.]

...

[4] D. Withholding tax liabilities of withholding agents arising from their failure to remit withheld taxes.

x - x

> (PAN)/Notice for Informal Conference or equivalent document is sufficient[5].
>
> . . .

Accused filed through registered mail on 03 February 2020 his Compliance[6] attaching the originals of the following documents:

1. Payment Slip from AAB;
2. TAR;
3. APF; and,
4. Certificate of Tax Delinquencies/Tax Liabilities.

We now resolve.

The Tax Amnesty on Delinquencies (Title IV) of the Tax Amnesty Act covers all national internal revenue taxes for taxable year 2017 and prior years. The relevant sections of which are quoted hereunder:

> . . .
> **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.
>
> For purposes of this Act, the Tax Amnesty on Delinquencies may be availed of in the following instances:
>
> . . .
>
> (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**[.]
>
> . . .
>
> **Section 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:
>
> . . .

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[5] This requirement is not applicable to accused as the instant case relates to deficiency income tax.
[6] Received by the Court on 11 February 2020.

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> (c) **Pending criminal cases with criminal information filed with the Department of [J]ustice 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**[.][7]
>
> . . .
>
> **Section 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 an 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.
>
> . . .

In relation to the above, RR 4-2019 became effective on 24 April 2019. Hence, taxpayers who wish to avail of the tax amnesty may do so within one (1) year from the said effectivity date. As alleged on his Motion, accused availed of the tax amnesty on delinquencies pursuant to the provisions above on 27 November 2019, well within the one-year period.

Upon availment of the tax amnesty and full compliance with the conditions set forth in the law and its implementing rules and regulations, the pending criminal case shall be *terminated*. Section 20 of the Tax Amnesty Act provides:

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[7] Emphasis supplied.

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> . . .
> **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, <u>be terminated</u>, <u>and the taxpayer shall be immune from all suits and actions, including the payment of said delinquency or assessment</u>, as well as additions thereto, <u>and from all appurtenant civil, criminal, and administrative cases</u>, 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.[8]
>
> . . .

It can be gleaned from both the Information and Certificate of Tax Delinquencies/Tax Liabilities that accused has a basic deficiency income tax for calendar year 2010 amounting to ₱2,846,694.58. The documents submitted above sufficiently prove that accused paid ₱1,708,016.75 equivalent to 60% of the basic deficiency income tax.

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[8] Emphasis and underscoring supplied.

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With the accused's compliance with the conditions laid down by the law and its implementing rules and regulations, in availing of the tax amnesty on delinquencies, the Court is mandated by law to terminate and deem as closed the instant criminal case.

WHEREFORE, premises considered, accused's Motion for Dismissal of the Case is **GRANTED**. Accordingly, with accused's availment of the tax amnesty on delinquencies pursuant to Republic Act No. 11213, otherwise known as the Tax Amnesty Act, the instant case titled *People of the Philippines v. Abraham P. Cuaresma*, docketed as CTA Crim. Case No. O-797 is hereby **TERMINATED** and **DEEMED AS CLOSED.**

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