REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

JONES LANG LASALLE (PHILIPPINES), INC.,
Respondent.

CTA EB NO. 2362
(CTA Case No. 9590)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated: MAY 13 2022 11:32 a.m.

x - x

JUDGMENT BASED ON COMPROMISE AGREEMENT

***BACORRO-VILLENA, J.*:**

On 03 June 2021, the Court *En Banc* received the Mediator's Report[1] submitted by the Philippine Mediation Center-Court of Tax Appeals Unit (**PMC-CTA**) stating that the parties were able to reach a settlement. An original copy of the signed Compromise Agreement[2] was also forwarded to this Court.

[1] *Rollo*, p. 68.
[2] Id., pp. 77-79.

It is noted that, while the parties did not file any motion for the approval of the same, the Compromise Agreement that they have signed nevertheless states that it is for the Court's consideration and approval.

To recap, the Third Division previously promulgated the assailed Decision dated 12 March 2020[3] (**assailed Decision**) which granted respondent Jones Lang Lasalle (Philippines), Inc.'s (**respondent**'s) prior Petition for Review cancelling the deficiency Value-Added Tax (**VAT**) assessment in the total amount of ₱7,507,045.30 and the Final Notice Before Seizure (**FNBS**) issued against it. Finding no reason to grant petitioner Commissioner of Internal Revenue's (**petitioner**'s) Motion for Reconsideration (**MR**) thereon, the Third Division promulgated the assailed Resolution dated 07 October 2020[4] (**assailed Resolution**).

On these assailed Decision and Resolution, petitioner filed the present Petition for Review[5] on 28 October 2020. After respondent filed its Comment/Opposition[6] on 21 December 2020, the Court *En Banc* referred the case to PMC-CTA for mediation.[7]

As stated, the parties were able to settle and consequently, they executed the subject Compromise Agreement using PMC-CTA Form 4[8], which contains the following stipulations:

> ...
>
> **COMPROMISE AGREEMENT**
>
> The undersigned parties, Petitioner **COMMISSIONER OF INTERNAL REVENUE, ("CIR")** with address at Room 703 BIR Building, Bureau of Internal Revenue, Diliman, Quezon City, Philippines, represented by the Bureau of Internal Revenue - Litigation Division, and Respondent **JONES LANG LASALLE (PHILIPPINES), INC, ("JLL")** with address at 19th Floor NEX Tower, 6786 Ayala Avenue, Makati City, represented herein by its President, **CHRISTOPHE JOSEPH VICIC.**

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3 Id., pp. 21-42.
4 Id., pp. 43-46.
5 Id., pp. 1-20.
6 Id., pp. 50-64.
7 *Per* Resolution dated 12 January 2021, id., pp. 66-67.
8 Compromise Agreement.

AGREE as follows:

WHEREAS, on 15 May 2017, a Petition for Review with Urgent Motion for the Issuance of an Order to Suspend the Collection of Tax was filed by JLL against the CIR questioning the validity of the deficiency value-added tax ("VAT") assessments for Taxable Year 2007. In the said assessment, the CIR assessed JLL as liable for deficiency VAT, with the basic tax [VAT] amounting to [**Php**] **Three Million Four Hundred Forty Seven Thousand and Sixty Four Pesos and Eighty Centavos (Php 3,447,064.80)**. The CIR ordered JLL to pay this amount, in addition to penalties.

WHEREAS, on 12 March 2020, the Honorable Court of Tax Appeals Third Division promulgated a Decision granting JLL's Petition for Review and cancelling the VAT assessment by the CIR ("Third Division's Decision").

WHEREAS, on 30 June 2020, the CIR filed a Motion for Reconsideration dated 29 June 2020 of the Court of Tax Appeals Third Division's Decision.

WHEREAS, on 7 October 2020, the Honorable Court of Tax Appeals Third Division denied the CIR's Motion for Reconsideration dated 29 June 2020.

WHEREAS, on 28 October 2020, the CIR filed a Petition for Review with the Honorable Court of Tax Appeals *En Banc* appealing the Court of Tax Appeals Third Division's Decision.

WHEREAS, on 21 December 2020, JLL filed its Comment/Opposition to the CIR's Petition for Review dated 28 October 2020, pursuant to the Court of Tax Appeals *En Banc*'s Resolution dated 26 November 2020 ordering JLL to Comment on the CIR's Petition for Review.

WHEREAS, on 20 January 2021, JLL through counsel received a Resolution from the CTA *En Banc* dated 12 January 2021, ordering the parties or their authorized representative to proceed and personally appear before Ms. Avigail B. Sanchez, Mediation Staff Assistant, at the Philippine Mediation Center - Court of Tax Appeals (PMC-CTA) on 1 March 2021 for purposes of deciding whether or not they would agree to enter into mediation.

WHEREAS, during mediation proceedings before the Philippine Mediation Center - Court of Tax Appeals, JLL has offered to amicably settle the case for **Five Hundred Seventeen Thousand Fifty-Nine Pesos and [Seventy-Two] Cents (Php 517,059.72)** 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, as amended, JLL has offered and the CIR has accepted the amount of **Five Hundred Seventeen Thousand Fifty-Nine Pesos and [Seventy-Two] Centavos (Php 517,059.72)**, representing 15% of the basic tax assessed, as full satisfaction of the 2007 tax assessment subject to the approval of the Honorable Court of Tax Appeals.

IN WITNESS WHEREOF, the Parties hereto have mutually and voluntarily accepted the above stipulations, and sign this Agreement, at Quezon City on this 15th day of April, 2021 for the consideration and approval of the Honorable Court.

COMMISSIONER OF INTERNAL REVENUE
Petitioner

JONES LANG LASALLE (PHILIPPINES), INC.
Respondent

By:

(Sgd.)
CAESAR R. DULAY
Commissioner of Internal Revenue

(Sgd.)
CHRISTOPHE JOSEPH VICIC
President

ATTESTED:

(Sgd.)
(Ret.) JUSTICE AMELIA R. COTAN[G]CO-MANALASTAS
Mediator[9]

...

In support thereof, the parties also submitted the following documents:

1. Original Special Power of Attorney (**SPA**) dated 12 May 2021[10] executed by Felix Paul R. Velasco III, Head Revenue Executive Assistant, Enforcement Advocacy Service;
2. Original SPA dated 02 September 2016[11] executed by respondent's duly authorized representative, Katrina Urbano;

[9] Emphasis and italics in the original text.
[10] *Rollo*, p. 71.

3. Photocopy of Secretary's Certificate dated 11 May 2017[12] issued by Roderick R.C. Salazar III (**Salazar**), respondent's Corporate Secretary;

4. Computer print-out of Payment Form (BIR Form No. 0605)[13] as voluntary payment for the Compromise Agreement in the amount of ₱517,059.72 with date filed on 15 April 2021; and,

5. Bureau of Internal Revenue (**BIR**) Electronic Filing and Payment System (**eFPS**) payment confirmation with Reference Number 2921000412695554.[14]

On 14 July 2021, the Court *En Banc* ordered the parties to submit the originals or certified true copies of the Certificate of Availment showing the approval of the National Evaluation Board (**NEB**) as well as the Secretary's Certificate showing the authority of Christophe Joseph Vicic (**Vicic**) to enter into the subject Compromise Agreement.[15]

On 26 October 2021, petitioner submitted a certified true copy of the Certificate of Availment dated 19 October 2021[16], along with the signature page[17] showing the NEB members' unanimous approval thereof.

After the Court *En Banc* reiterated its directive for respondent to submit proof of authority in Vicic's favor[18], it submitted the original Secretary's Certificate dated 03 December 2021[19] executed by Salazar (containing the resolution of respondent's Board of Directors confirming the authority of Vicic to ratify and sign the Compromise Agreement).

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11 Id., pp. 72-73.
12 Id., pp. 74-75.
13 Id., p. 81.
14 Id., p. 82.
15 *Per* Resolution dated 14 July 2021, id., pp. 85-88.
16 Id., p. 93.
17 Id., p. 94. The Court *En Banc*, however, notes that the Judicial Compromise Amount stated therein contains a typographical error in the centavos portion which should be ₱517,059.72 (₱3,447,064.80 x 15%) instead of ₱517,059.52.
18 *Per* Resolution dated 02 December 2021, id. pp. 96-97.
19 Id., p. 100.

In its 02 March 2022 Resolution, the Court *En Banc* further directed respondent to submit its prior written request for a compromise rate lower than forty percent (40%) stating therein the legal and/or factual reasons on why it should be entitled to such lower rate, as required by Section 4[20] of Revenue Regulations (**RR**) No. 30-2002.[21]

On 25 March 2022, respondent filed its Compliance with Manifestation (Re: Resolution dated 02 March 2022)[22] (**Compliance with Manifestation**) attaching therewith a copy of its letter to the BIR dated 04 March 2021.[23] The said letter discloses the fact that respondent made an offer of compromise in the amount of ₱500,000.00 as a sign of good faith and with the aim of putting an end to the litigation of the subject case.

We resolve.

Section 204(A) of the National Internal Revenue Code (**NIRC**) of 1997, as amended, provides:

> ...
>
> **SEC. 204.** *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* —
>
> The Commissioner may —
>
> (A) Compromise the payment of any internal revenue tax, when:
>
> (1) A reasonable doubt as to the validity of the claim against the taxpayer exists; or

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20 ...

2. For cases of "doubtful validity" – A minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.

The taxpayer may, nevertheless, request for a compromise rate lower than forty percent (40%): Provided, however, that he shall be required to submit his request in writing stating therein the reasons, legal and/or factual, why he should be entitled to such lower rate: Provided, further, that for applications of compromise settlement based on doubtful validity of the assessment involving an offer lower than the minimum forty percent (40%) compromise rate, the same shall be subject to the prior approval by the NEB.

...

21 Revenue Regulations Implementing Sections 7(c), 204(A) and 290 of the National Internal Revenue Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities Superseding Revenue Regulations Nos. 6-2000 and 7-2001.

22 *Rollo*, pp. 111-117.

23 Id., pp. 121-122.

> (2) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.
>
> The compromise settlement of any tax liability shall be subject to the following minimum amounts:
>
> For cases of financial incapacity, a minimum compromise rate equivalent to ten percent (10%) of the basic assessed tax; and
>
> **For other cases, a minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.**
>
> **Where the basic tax involved exceeds One million pesos (P1,000,000) or where the settlement offered is less than the prescribed minimum rates, the compromise shall be subject to the approval of the Evaluation Board which shall be composed of the Commissioner and the four (4) Deputy Commissioners.**[24]
>
> ...

In connection thereto, Section 6 of RR No. 30-2002[25], as amended by RR No. 9-2013[26], states:

> ...
>
> **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.[27]
>
> xxx xxx xxx
>
> <u>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.</u>[28]
>
> xxx xxx xxx
>
> ...

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[24] Emphasis supplied.
[25] Supra at note 21.
[26] Amending Certain Provisions of Revenue Regulations No. 30-2002.
[27] Emphasis in the original text.
[28] Omissions and underscoring in the original text.

Furthermore, Revenue Memorandum Order (**RMO**) No. 3-2017[29] also provides, as follows:

> ...
>
> **All approved applications for compromise settlement and/or abatement of penalties shall be issued Certificate of Availment (CA)** following the prescribed format as per attached Annexes "A" and "B", while denied applications shall be issued Notice of Denial (ND) following prescribed format as per attached annexes "C" and "D".[30]
>
> ...

From the foregoing, a compromise settlement of any tax liability where the basic tax involved exceeds ₱1,000,000.00 or where the settlement offered is less than the prescribed minimum rates must bear the approval of the majority of all NEB members. Such approval shall be evidenced by a Certificate of Availment following the prescribed format.

Here, the basic deficiency VAT involved is ₱3,447,064.80 and respondent's settlement offer is only ₱517,059.72 or fifteen percent (15%) of the basic tax assessed, which is less than the prescribed minimum rate of forty percent (40%) for cases grounded on doubtful validity.

However, Section 4 of RR No. 30-2002, as amended[31], provides:

> ...
>
> 2. For cases of "doubtful validity" – A minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.
>
> **The taxpayer may, nevertheless, request for a compromise rate lower than forty percent (40%): Provided, however, that <u>he shall be required to submit his request in writing stating therein the reasons, legal and/or factual, why he should be entitled to such lower rate</u>**: Provided, further, that for applications of compromise settlement based on doubtful validity of the assessment involving an offer lower than the minimum forty percent

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29 Amending Further the Prescribed Format for the Certificate of Availment/Approval and Notice of Denial Relative to Application for Compromise Settlement and/or Abatement of Penalties Pursuant to Section 204 of the Tax Code, as Amended.

30 Emphasis supplied.

31 Revenue Regulations Implementing Sections 7(c), 204(A) and 290 of the National Internal Revenue Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities Superseding Revenue Regulations Nos. 6-2000 and 7-2001.

> (40%) compromise rate, the same shall be subject to the prior approval by the NEB.[32]
>
> ...

In compliance with the said provision, respondent submitted proof of its prior written offer[33] of ₱500,000.00 as a sign of good faith and with the aim of putting an end to the litigation of the subject case. Moreover, respondent also justified in its Compliance with Manifestation the use of a lower rate of 15% considering that the parties reached an agreement after the promulgation of the assailed Decision (granting its prior Petition for Review and declaring the deficiency VAT assessment against it null and void), which was further affirmed in the assailed Resolution.

Finding that respondent made a prior written offer of compromise of ₱500,000.00 (which is equivalent to a rate lower than 40%), coupled by the fact that such Compromise Agreement was arrived at only after the promulgation of the assailed Decision declaring the VAT assessment against respondent null and void (since there was a violation of respondent's right to due process), the Court *En Banc* deems the same as substantial compliance with the requirements of the above-cited Section 4 of RR No. 30-2002, as amended.

As to the requirement of having the same approved by the NEB, records show that in turn, petitioner submitted certified true copies of the Certificate of Availment[34] and its signature page[35] (showing the unanimous approval of the members of the NEB).

Thus, after careful scrutiny of the parties' documents, submitted in support of the Compromise Agreement, the Court *En Banc* finds the same in order and in compliance with the established laws, rules and regulations. Hence, the Court *En Banc* approves the same and judgment is hereby rendered based therein.

In *Felipe O. Magbanua, et al. v. Rizalino Uy*[36], the Supreme Court ruled as follows:

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[32] Emphasis and underscoring supplied.
[33] Supra at note 23
[34] Supra at note 16.
[35] Supra at note 17.
[36] G.R. No. 161003, 06 May 2005; Citations omitted.

...

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. Verily, the compromise may be either extrajudicial (to prevent litigation) or judicial (to end a litigation).

A compromise 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. To have the force of law between the parties, it must comply with the requisites and principles of contracts. Upon the parties, it has the effect and the authority of *res judicata*, once entered into.

When a compromise agreement is given judicial approval, 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. It is immediately executory and not appealable, except for vices of consent or forgery. The nonfulfillment of its terms and conditions justifies the issuance of a writ of execution; in such an instance, execution becomes a ministerial duty of the court.

...

The issue involving the validity of a compromise agreement notwithstanding a final judgment is not novel. *Jesalva v. Bautista* upheld a compromise agreement that covered cases pending trial, on appeal, and with final judgment. The Court noted that Article 2040 impliedly allowed such agreements; there was no limitation as to when these should be entered into. *Palanca v. Court of Industrial Relations* sustained a compromise agreement, notwithstanding a final judgment in which only the amount of back wages was left to be determined. The Court found no evidence of fraud or of any showing that the agreement was contrary to law, morals, good customs, public order, or public policy.

Gatchalian v. Arlegui upheld the right to compromise prior to the execution of a final judgment. The Court ruled that the final judgment had been novated and superseded by a compromise agreement. Also, *Northern Lines, Inc. v. Court of Tax Appeals* recognized the right to compromise final and executory judgments, as long as such right was exercised by the proper party litigants.

...

There is no justification to disallow a compromise agreement, solely because it was entered into after final judgment. The validity of the agreement is determined by compliance with the requisites and principles of contracts, not by when it was entered into. As provided by the law on contracts, a valid compromise must have the following elements: (1) the consent of the parties to the compromise, (2) an object certain that is the subject matter of the compromise, and (3) the cause of the obligation that is established.

...

WHEREFORE, in view of the foregoing, the Compromise Agreement entered into by petitioner Commissioner of Internal Revenue and respondent Jones Lang Lasalle (Philippines), Inc. is hereby **APPROVED.** Having been impressed with judicial imprimatur, the parties are thus **ORDERED** to faithfully comply with all the terms and conditions of the aforesaid Compromise Agreement.

The pending Petition for Review filed by petitioner is now considered **MOOT AND ACADEMIC**. Accordingly, this case is now deemed **CLOSED AND TERMINATED.**

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

Ma. Belen M. Ringpis-Liban
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

INHIBITED
LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Judgment Based on Compromise Agreement were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice