REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

REYNALDO GUATATO MENDOZA,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9510

Members:

DEL ROSARIO, *P.J., Chairperson,*
FABON-VICTORINO, *and*
MANAHAN, *JJ.*

Promulgated:
MAR 29 2019 9:48 am

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RESOLUTION

In the Resolution dated February 27, 2019, the Court denied the parties' Compromise Agreement for their failure to submit the original or certified true copy of the Certificate of Availment within the period allowed by the Court.

Meanwhile, on February 27, 2019, the Court received respondent's "**Motion to Admit Approved Certificate of Availment of Compromise Penalty with Explanation**" with attached certified true copy of "**Certificate of Availment (Compromise Settlement)**" and a photocopy of Revenue Travel Assignment Order No. 287-2018, posted on February 15, 2019, by respondent's new handling counsel, Atty. Sheeherazadee A. Labor, who replaced respondent's former counsel, Atty. Wilnerson B. Villanueva.

In the said Motion, respondent prays that the Court: *(i)* note the present "Motion to Admit Approved Certificate of Availment with Explanation"; *(ii)* consider the submission of the Certificate of Availment (Compromise Settlement) sufficient compliance with the Court's directive as stated in its November 19, 2018 Resolution; and, *(iii)* reconsider the January 25, 2019 Resolution which found Atty. Villanueva guilty of indirect contempt.

Respondent's counsel, Atty. Labor, explains that Atty. Villanueva was transferred to Bureau of Internal Revenue, Revenue

Region No. 10 – Legazpi City, Albay pursuant to Revenue Travel Assignment Order (RTAO) No. 287-2018 dated September 3, 2018, and that he has reported for duty in Legazpi City on October 1, 2018; and that this case was merely reassigned to her on December 7, 2018. Atty. Labor further expresses her earnest apologies to the Court for her failure to advise Atty. Villanueva of the November 19, 2018 Resolution (ordering the latter to show cause why he should not be cited for indirect contempt for failure to comply with the Court's lawful order) and for her failure to file the appropriate motion to inform the Court about Atty. Villanueva's transfer to another Revenue Region.

Upon careful consideration of respondent's Motion to Admit and conscientious evaluation of the **Certificate of Availment (Compromise Settlement) and the parties' Compromise Agreement,** the Court, in the paramount interest of substantial justice, finds basis to grant respondent's pleaded reliefs, *save* for respondent's prayer to reconsider the January 25, 2019 Resolution which found Atty. Villanueva guilty of indirect contempt.

While Atty. Villanueva filed a Motion for Reconsideration of the January 25, 2019 Resolution on February 15, 2019, the Court, in its Resolution dated February 28, 2019, treated the same as a mere scrap of paper for failure to state a notice of hearing. Considering that a defective motion for reconsideration does not toll the running of the period to appeal, the January 25, 2019 Resolution had already become final and executory; hence, a writ of execution may perforce be issued pursuant to Section 7, Rule 71 of the Rules of Court.[1]

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[1] Rules 71, Rules of Court

Section 7. *Punishment for indirect contempt.* — If the respondent is adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank, he may be punished by a fine not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both. If he is adjudged guilty of contempt committed against a lower court, he may be punished by a fine not exceeding five thousand pesos or imprisonment not exceeding one (1) month, or both. If the contempt consists in the violation of a writ of injunction, temporary restraining order or *status quo* order, he may also be ordered to make complete restitution to the party injured by such violation of the property involved or such amount as may be alleged and proved.

The writ of execution, as in ordinary civil actions, shall issue for the enforcement of a judgment imposing a fine unless the court otherwise provides.

WHEREFORE, premises considered, respondent's "Motion to Admit Approved Certificate of Availment of Compromise Penalty with Explanation" is **GRANTED**. The "Certificate of Availment (Compromise Settlement)" is **ADMITTED**. The parties' "Compromise Agreement" dated April 19, 2018, which was filed on April 20, 2018, is **APPROVED**. The February 27, 2019 Resolution which denied the parties' aforestated Compromise Agreement is **SET ASIDE**.

The presentation of petitioner's witness, Reynaldo Guatato Mendoza, previously set on April 2, 2019 at 9:00 a.m. is **CANCELLED**.

Respondent's motion for reconsideration of the **January 25, 2019 Resolution which found Atty. Wilnerson B. Villanueva guilty of indirect contempt is DENIED. Let an entry of judgment and writ of execution be issued to enforce the January 25, 2019 Resolution**.

In view of the approval of the parties' aforestated Compromise Agreement, this case is considered **CLOSED** and **TERMINATED**.

Let a copy of this Resolution be served upon the **Commissioner of Internal Revenue, Hon. Caesar R. Dulay, Atty. Wilnerson B. Villanueva at the Bureau of Internal Revenue, Revenue Region No. 10, Legal Division, Legazpi City, and the parties, through their respective counsels of record.**

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice