REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

TRINITY FRANCHISING AND MANAGEMENT CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1965
(CTA Case No. 9177)

x---x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

TRINITY FRANCHISING AND MANAGEMENTCORPORATION,
Respondent.

CTA EB NO. 2028
(CTA Case No. 9177)

Present:
Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ.*

Promulgated:
JUN 0 9 2021 4:20 pm

x--x

JUDGMENT ON COMPROMISE AGREEMENT

Before this Court is the parties' "Joint Motion for Judgment Based on Compromise Agreement," praying that the Compromise Agreement be approved by the Court.

In the Resolution dated March 2, 2021, the Court required the parties to submit proof that a majority of all the members of the National Evaluation Board (NEB) approved the compromise agreement, as well as the authority of

Clavelina S. Nacar to sign for and in behalf of the NEB, the Certificate of Availment.

In compliance with the said Resolution, the parties filed on March 10, 2021 the 1) certified true copy of the approval page showing the fact that the compromise agreement on the deficiency tax assessments covering taxable year 2009 of respondent was approved by the majority of the members of the NEB and 2) a copy of Revenue Delegation Authority No. 6-2007 which shows Assistant Commissioner of Collection Service Clavelina S. Nacar is authorized to sign the Certificate of Availment.

Section 6 of Revenue Regulations (RR) No. 30-2002, as amended by RR No. 9-2013, provides, to wit –

> "SEC. 6. APPROVAL OF OFFER OF COMPROMISE.- Except for offers of compromise where the approval is delegated to the REB[1] 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[2] 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.
>
> 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."

The "Compromise Agreement" states as follows:

> "WHEREAS, subject of the above-captioned cases is the Final Decision on Disputed Assessment dated 1 October 2015 issued by the Commissioner of Internal Revenue assessing Trinity for deficiency income tax, value-added tax "(VAT"), expanded withholding tax ("EWT"), withholding tax on compensation "(WTC"), final withholding tax "(FWT"), fringe benefits tax ("FBT"), and documentary stamp tax ("DST") in the aggregate

[1] Regional Evaluation Board.
[2] National Evaluation Board.

amount of Php135,476,175.51 for taxable year ended 31 December 2011.

WHEREAS, on 29 October 2018, the Second Division of the Court of Tax Appeals promulgated an Amended Decision cancelling the assessments of the Commissioner of Internal Revenue against Trinity for deficiency income tax, FWT, FBT, DST, and compromise penalties for taxable year ended 31 December 2011 and ordering Trinity to pay the amount of P4,263,039.62 representing the supposed basic deficiency VAT, EWT and WTC for taxable year 2011, 25% surcharge, 20% deficiency interest, and 20% delinquency interest computed until 31 December 2017 and delinquency interest rate of 12% on the total unpaid basic deficiency VAT, EWT, and WTC for taxable year 2011, 25% surcharge, and 20% deficiency interest as of 2 October 2015 computed from 1 January 2018 until full payment thereof.

WHEREAS, On 26 February 2019, the Second Division of the Court of Tax Appeals promulgated its Resolution denying the Motion for Reconsideration filed by the Commissioner of Internal Revenue and affirming the Amended Decision dated 29 October 2018. The Amended Decision dated 29 October 2018 and Resolution dated 26 February 2019 of the Second Division of the Court of Tax Appeals are currently on appeal with the Court of Tax Appeals *En Banc* upon separate Petitions for Review filed by Trinity and the Commissioner of Internal Revenue respectively docketed as CTA EB Case No. 1965 and CTA EB Case No. 2028.

WHEREAS, the parties have agreed to accept mediation to avoid prolonged litigation, as authorized by A.M. No. 11-1-05-SC-PHILJA, and with the assistance of the assigned mediator, the parties successfully reached a compromise agreement.

NOW THEREFORE, Trinity has offered and the Commissioner of Internal Revenue has accepted the amount of Php5,000,000.00 as full and final satisfaction of any and all internal revenue tax liabilities for taxable year 2011."

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 such gain is balanced by the danger of losing. It 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. A compromise agreement may be executed in and out of court. Once a compromise agreement is given judicial approval, however, 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.[3]

Finding the subject compromise agreement to be in order and in compliance with established laws, rules and regulations, taking into consideration the documents submitted by the parties in support thereof, the same is approved.

WHEREFORE, in view of the foregoing, the parties' "Joint Motion for Judgment Based on Compromise Agreement" is **GRANTED**.

The Compromise Agreement is **APPROVED** and judgment is hereby rendered in accordance therewith. Accordingly, the proceedings in the instant cases are considered **CLOSED and TERMINATED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[3] *David vs. Paragas, Jr.*, G.R. No. 176973, February 25, 2015.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the conclusions in the above Judgment on Compromise Agreement have been reached in consultation with the members of the Court *En Banc* before the cases were assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice