

## SECOND DIVISION

[ G.R. No. 216161, August 09, 2017 ]

### COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. PHILIPPINE ALUMINUM WHEELS, INC., RESPONDENT.

#### DECISION

**CARPIO, J.:**

##### The Case

Before the Court is a petition for review on certiorari<sup>[1]</sup> assailing the 19 May 2014 Decision<sup>[2]</sup> and the 5 January 2015 Resolution<sup>[3]</sup> of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 994.

The CTA *En Banc* affirmed the Decision of the CTA First Division ordering the cancellation and withdrawal of the deficiency tax assessments issued by the Commissioner of Internal Revenue (CIR) against Philippine Aluminum Wheels, Inc. (respondent).

##### The Facts

Respondent is a corporation organized and existing under Philippine laws which engages in the manufacture, production, sale, and distribution of automotive parts and accessories. On 16 December 2003, the Bureau of Internal Revenue (BIR) issued a Preliminary Assessment Notice (PAN) against respondent covering deficiency taxes for the taxable year 2001.<sup>[4]</sup> On 28 March 2004, the BIR issued a Final Assessment Notice (FAN) against respondent in the amount of P32,100,613.42.<sup>[5]</sup> On 23 June 2004, respondent requested for reconsideration of the FAN issued by the BIR. On 8 November 2006, the BIR issued a Final Decision on Disputed Assessment (FDDA) and demanded full payment of the deficiency tax assessment from respondent.<sup>[6]</sup> On 12 April 2007, the FDDA was served through registered mail.

On 19 July 2007, respondent filed with the BIR an application for the abatement of its tax liabilities under Revenue Regulations No. 13-2001 for the taxable year 2001.<sup>[7]</sup> In a letter dated 12 September 2007,<sup>[8]</sup> the BIR denied respondent's application for tax abatement on the ground that the FDDA was already issued by the BIR and that the FDDA had become final and executory due to the failure of the respondent to appeal the FDDA with the CTA. The BIR contended that the FDDA had been sent through registered mail on 12 April 2007 and that the FDDA had become final, executory, and demandable because of the failure of the respondent to appeal the FDDA with the CTA within thirty (30) days from receipt of the FDDA.

In a letter dated 19 September 2007,<sup>[9]</sup> respondent informed the BIR that it already

paid its tax deficiency on withholding tax amounting to P736,726.89 through the Electronic Filing and Payment System of the BIR and that it was also in the process of availing of the Tax Amnesty Program under Republic Act No. 9480 (RA 9480) as implemented by Revenue Memorandum Circular No. 55-2007 to settle its deficiency tax assessment for the taxable year 2001. On 21 September 2007, respondent complied with the requirements of RA 9480 which include: the filing of a Notice of Availment, Tax Amnesty Return and Payment Form, and remitting the tax payment. In a letter dated 29 January 2008, the BIR denied respondent's request and ordered respondent to pay the deficiency tax assessment amounting to P29,108,767.63.<sup>[10]</sup>

In a second letter dated 16 July 2008, the BIR reiterated that the FDDA had become final and executory for the failure of the respondent to appeal the FDDA with the CTA within the prescribed period of thirty (30) days. The BIR demanded the full payment of the tax assessment and contended that the respondent's availment of the tax amnesty under RA 9480 had no effect on the assessment due to the finality of the FDDA prior to respondent's tax amnesty availment. On 1 August 2008, respondent filed a Petition for Review with the CTA assailing the letter of the BIR dated 16 July 2008.

### **The Decision of the CTA First Division**

On 12 November 2012, the CTA granted respondent's Petition for Review and set aside the assessment in view of respondent's availment of a tax amnesty under RA 9480. The CTA First Division held that RA 9480 covers all national internal revenue taxes for the taxable year 2005 and prior years, with or without assessments duly issued, that have remained unpaid as of 31 December 2005.<sup>[11]</sup> The CTA First Division ruled that respondent complied with all the requirements of RA 9480 including the payment of the amnesty tax and submission of all relevant documents. Having complied with all the requirements of RA 9480, respondent is fully entitled to the immunities and privileges granted under RA 9480.<sup>[12]</sup>

The dispositive portion of the Decision states:

WHEREFORE, premises considered, the instant Petition for Review is GRANTED. The subject assessment in the present case against petitioner is hereby SET ASIDE solely in view of petitioner's availment of the Tax Amnesty Program under R.A. No. 9480; and accordingly, petitioner is hereby DECLARED ENTITLED to the immunities and privileges provided by the Tax Amnesty Law being a qualified tax amnesty applicant and for having complied with all the documentary requirements set by law.

SO ORDERED.<sup>[13]</sup>

The CIR filed a Motion for Reconsideration<sup>[14]</sup> on 3 December 2012 which the CTA First Division denied on 1 March 2013.<sup>[15]</sup>

### **The Decision of the CTA *En Banc***

On 19 May 2014, the CTA *En Banc* held that a qualified tax amnesty applicant who has completed the requirements of RA 9480 shall be deemed to have fully complied with the Tax Amnesty Program. Upon compliance with the requirements of the law,

the taxpayer shall, as mandated by law, be immune from the payment of taxes as well as appurtenant civil, criminal, or administrative penalties under the National Internal Revenue Code. The CTA *En Banc* ruled that the finality of a tax assessment did not disqualify respondent from availing of a tax amnesty under RA 9480.

The dispositive portion of the Decision states:

WHEREFORE, premises considered, the Petition for Review filed by the Commissioner of Internal Revenue is DENIED, for lack of merit. The Decision of the First Division of this Court promulgated on November 12, 2012 in CTA Case No. 781[7], captioned *Philippine Aluminum Wheels, Inc. v. Commissioner of Internal Revenue*, and the Resolution of the said Division dated March 1, 2013, are AFFIRMED *in toto*.

SO ORDERED.<sup>[16]</sup>

The CIR filed a Motion for Reconsideration on 11 June 2014 which was denied on 5 January 2015.<sup>[17]</sup>

### **The Issue**

Whether respondent is entitled to the benefits of the Tax Amnesty Program under RA 9480.

### **The Decision of this Court**

This Court denies the petition in view of the respondent's availment of the Tax Amnesty Program under RA 9480.

A tax amnesty is a general pardon or intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law. It partakes of an absolute forgiveness or waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate. A tax amnesty, much like a tax exemption, is never favored nor presumed in law. The grant of a tax amnesty, similar to a tax exemption, must be construed strictly against the taxpayer and liberally in favor of the taxing authority.<sup>[18]</sup>

On 24 May 2007, RA 9480, or "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 2005 and Prior Years," became law.

The pertinent provisions of RA 9480 are:

Section 1. *Coverage*. There is hereby authorized and granted a tax amnesty which shall cover all national internal revenue taxes for the taxable year 2005 and prior years, **with or without assessments duly issued therefor**, that have remained unpaid as of December 31, 2005: Provided, however, that the amnesty hereby authorized and granted shall not cover persons or cases enumerated under Section 8 hereof.

x x x x

Section 6. *Immunities and Privileges.* Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:

(a) 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 National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.

x x x x (Emphasis supplied)

The Department of Finance issued DOF Department Order No. 29-07 (DO 29-07).  
[19] Section 6 of DO 29-07 provides for the method for availing a tax amnesty under RA 9480, to wit:

Section 6. *Method of Availment of Tax Amnesty.*

1. Forms/Documents to be filed. To avail of the general tax amnesty, concerned taxpayers shall file the following documents/requirements:

- a. Notice of Availment in such forms as may be prescribed by the BIR;
- b. Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005 in such forms, as may be prescribed by the BIR;
- c. Tax Amnesty Return in such forms as may be prescribed by the BIR.

2. x x x.

3. x x x.

The Acceptance of Payment Form, the Notice of Availment, the SALN, and the Tax Amnesty Return shall be submitted to the RDO, which shall be received only after complete payment. **The completion of these requirements shall be deemed full compliance with the provisions of RA 9480.**

x x x x (Emphasis supplied)

In *Philippine Banking Corporation v. Commissioner of Internal Revenue*,<sup>[20]</sup> this Court held that the taxpayer's completion of the requirements under RA 9480, as implemented by DO 29-07, will extinguish the taxpayer's tax liability, additions and all appurtenant civil, criminal, or administrative penalties under the National Internal Revenue Code, to wit:

Considering that the completion of these requirements shall be deemed full compliance with the tax amnesty program, the law mandates that the taxpayer shall thereafter be immune from the payment of taxes, and additions thereto, as well as the appurtenant civil, criminal or administrative penalties under the NIRC of 1997, as amended, arising