

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PHILIPPINE NATIONAL BANK,
Petitioner,

C.T.A. CASE NO. 6850

Members:

- versus -

ACOSTA, Chairperson
BAUTISTA, and
CASANOVA, JJ

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

Promulgated:

MAR 02 2010; *g:00 Ask*

X ----- X

AMENDED DECISION

BAUTISTA, JJ:

This resolves petitioner's *Motion for Partial Reconsideration (with Prayer to Admit Attached Tax Abatement Documents)* filed on March 20, 2009; seeking the partial reconsideration of this Court's *Decision* promulgated on March 3, 2009 and the permission to submit the attached Tax Abatement documents as evidence.

The dispositive portion of the assailed *Decision* states as follows:

"WHEREFORE, the instant Petition for Review is hereby **PARTIALLY GRANTED.** Accordingly, the assessment for deficiency documentary stamp taxes on petitioner's Interbank Call Loans for taxable year 1997 is hereby **CANCELLED.** However, the assessment for deficiency documentary stamp tax on petitioner's Special Savings Account for taxable year 1997 is hereby **AFFIRMED.**

Petitioner is hereby **ORDERED** to **PAY** respondent the amount of **FOURTEEN MILLION SIX HUNDRED EIGHTY EIGHT THOUSAND FOUR HUNDRED SIXTY THREE PESOS AND FIFTEEN CENTAVOS (P14,688,463.15),** representing deficiency documentary stamp tax for taxable year 1997, computed as follows:

f

Special Savings Account	<u>7,833,847,016.00</u>
Documentary Stamp Tax (0.30/200)	11,750,770.52
Surcharge – 25%	<u>2,937,692.63</u>
Total Amount Due	14,688,463.15

In addition, petitioner is hereby **ORDERED** to **PAY** a penalty equivalent to twenty five percent (25%) and a delinquency interest equivalent to twenty percent (20%) per annum on the amount of P14,688,463.15 from February 15, 2004 until such amount is paid in full, pursuant to Sections 248 and 249 of the Tax Code.

SO ORDERED."

This Court in *Resolution* dated July 7, 2009, ruled, among others, to grant petitioner's prayer for the allowance of formal presentation, comparison with the originals, and identification of the attached One-Time Administrative Abatement documents. The Court likewise ordered the holding in abeyance of the resolution of petitioner's *Motion for Partial Reconsideration* until the said documents are formally offered in evidence.

On October 20, 2009, petitioner filed its *Petitioner's Supplemental Formal Offer of Evidence*, submitting the following exhibits:

1. Exhibit "VVV" – Philippine National Bank's (PNB) Application for Abatement Program dated January 30, 2007, with Bureau of Internal Revenue (BIR) stamp receipt dated January 31, 2007;
2. Exhibit "WWW" - Payment Form (BIR Form No. 0605) showing the amount of P11,750,771.00;
3. Exhibit "XXX" - Proof of PNB's payment through the Fund Transfer System of *Bangko Sentral ng Pilipinas*; and
4. Exhibit "YYY" - Termination Letter (Abatement Program Under RR 15-2006) dated April 28, 2009.

In *Resolution* dated November 26, 2009, the foregoing documents were duly admitted and petitioner's *Motion for Partial Reconsideration* was submitted for resolution.



Based on the documents presented, petitioner filed its Application for Abatement Program on January 30, 2007. After compliance with the requirements of the Abatement Program under Revenue Regulations (R.R.) No. 15-2006, a Termination Letter dated April 28, 2009 was issued covering Assessment No. DST-97-000064, stating in part as follows:

"This refers to your availment of the **ONE-TIME ADMINISTRATIVE ABATEMENT** of all penalties, surcharge and interest, pursuant the provisions of Section 204 of the Tax Code, as amended, and implemented by Revenue Regulations No. 15-2006, bearing on your internal revenue tax liabilities, to wit:

xxx

xxx

xxx

In this connection, we are pleased to inform you that in view of your availment of the aforesaid benefits granted under the special provisions of Section 204 of National Internal Revenue Code (NIRC), as amended, and its implementing rules and regulations, and the payment of the total amount of Eleven Million Seven Hundred Fifty Thousand Seven Hundred Seventy One (P11,750,771.00), pesos only, representing **ONE HUNDRED PERCENT (100%)** of the basic tax assessed under this **ABATEMENT PROGRAM**, the tax liability stated above is hereby **CLOSED** and **TERMINATED**.¹ (*Emphasis supplied*)

After a close scrutiny of the documents formally offered by petitioner in connection with its availment of the One-Time Administrative Abatement, this Court finds petitioner's *Motion for Partial Reconsideration* meritorious.

Petitioner was able to comply with the requirements of the Abatement Program under R.R. No. 15-2006, the pertinent portions of which read:

"SECTION 1. *Purpose.* - These regulations prescribe the guidelines for the availment by taxpayers of the opportunity to settle their delinquent accounts or assessments, preliminary and final, disputed or not, by way of application for abatement of all penalties, including surcharge and interest, under Section 204 of the National Internal Revenue Code (NIRC) of 1997 as another

¹ Exhibit "YYY"



step towards the collection and reduction of the Bureau's Accounts Receivables and pending assessments.

SECTION 2. *Coverage* – The following cases shall be covered hereof:

XXX

XXX

XXX

f.) Civil tax cases being disputed before the Department of Justice and the courts, e.g., MTC, RTC, CTA, CA and SC including decided cases which are not yet final and executory except those cases where the Presidential Commission on Good Government (PCGG) has an interest and/or there is a need to coordinate with the PCGG;

XXX

XXX

XXX

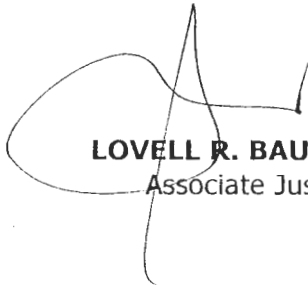
SECTION 4. *Who May Avail.* – **Any person/taxpayer, natural or juridical, may settle thru this abatement program any delinquent account or assessment which has been released as of June 30, 2006, by paying an amount equal to One Hundred Percent (100%) of the Basic Tax assessed with the Accredited Agent Bank (AAB) of the Revenue District Office (RDO)/Large Taxpayers Service (LTS)/Large Taxpayers District Office (LTDO) that has jurisdiction over the taxpayer. In the absence of an AAB, payment may be made with the Revenue Collection Officer/Deputized Treasurer of the RDO that has jurisdiction over the taxpayer. After payment of the basic tax, the assessment for penalties/surcharge and interest shall be cancelled by the concerned BIR Office following existing rules and procedures. Thereafter, the docket of the case shall be forwarded to the Office of the Commissioner, thru the Deputy Commissioner for Operations Group, for issuance of Termination Letter." (Emphasis supplied)**

The effect of compliance with the requirements of the Abatement Program is stated under Section 4 of the same Revenue Regulations, to wit:

"(A)fter payment of the basic tax, the assessment for penalties/surcharge and interest shall be cancelled by the concerned BIR Office following existing rules and procedures. Thereafter, the docket of the case shall be forwarded to the Office of the Commissioner, thru the Deputy Commissioner for Operations Group, for issuance of Termination Letter." (Emphasis supplied)

WHEREFORE, premises considered, petitioner's *Motion for Partial Reconsideration* is hereby **GRANTED**. Accordingly, Assessment Notice No. DST-97-000064 assessing petitioner of deficiency Documentary Stamp Tax on Special Savings Account in the total amount of P14,688,463.15, inclusive of surcharge, interest, and compromise penalty, for taxable year 1997 is hereby **CANCELLED** and **SET ASIDE** in view of petitioner's availment of the Abatement Program under Revenue Regulations No. 15-2006.

SO ORDERED.



LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:



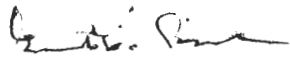
ERNESTO D. ACOSTA
Presiding Justice



CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division