



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

COMMISSIONER OF INTERNAL REVENUE, G.R. No. 203160

Petitioner, Present:

CARPIO, J.,
 Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., JJ.

- versus -

COVANTA ENERGY PHILIPPINE HOLDINGS, INC., Promulgated:

Respondent. 24 JAN 2018

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DECISION

REYES, JR., J.:

This is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision² dated March 30, 2012 and Resolution³ dated August 16, 2012 of the Court of Tax Appeals (CTA) *en banc* in CTA EB Case No. 713.

The CTA *en banc* denied the appeal of the Commissioner of Internal Revenue (CIR) and affirmed the cancellation and withdrawal of the deficiency tax assessments on respondent Covanta Energy Philippine Holdings, Inc. (CEPHI). The CIR avers, however, that CEPHI failed to

¹ Rollo, pp. 9-29.
² Penned by Associate Justice Lovell R. Bautista; id. at 30-54.
³ Id. at 55-57.

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comply with the requirements of the tax amnesty law, or Republic Act (R.A.) No. 9480.⁴

Factual Antecedents

On December 6, 2004, the CIR issued Formal Letters of Demand and Assessment Notices against CEPHI for deficiency value-added tax (VAT) and expanded withholding tax (EWT). The deficiency assessments were respectively in the amounts of ₱465,593.21 and ₱288,903.78, or an aggregate amount of ₱754,496.99, representing CEPHI's VAT and EWT liabilities for the taxable year 2001.⁵

CEPHI protested the assessments by filing two (2) separate Letters of Protest on January 19, 2005. However, the CIR issued another Formal Letter of Demand and Assessment Notice dated January 11, 2005, assessing CEPHI for deficiency minimum corporate income tax (MCIT) in the amount of ₱467,801.99, likewise for the taxable year 2001. This assessment led to CEPHI filing a Letter of Protest on the MCIT assessment on February 16, 2015.⁶

The protests remained unacted upon. Thus, CEPHI filed separate petitions before the CTA, seeking the cancellation and withdrawal of the deficiency assessments. The petitions were filed on October 10, 2005, for the deficiency VAT and EWT, which was docketed as CTA Case No. 7338; and on November 9, 2005, for the deficiency MCIT, which was docketed as CTA Case No. 7365.⁷

On December 6, 2005, the CIR filed an Answer for CTA Case No. 7338, while the Answer for CTA Case No. 7365 was filed on January 10, 2006. The cases were eventually consolidated upon the CIR's motion.⁸

After the parties' respective submission of their formal offer of evidence, CEPHI filed a Supplemental Petition on October 7, 2008, informing the CTA that it availed of the tax amnesty under R.A. No. 9480. CEPHI afterwards submitted a Supplemental Formal Offer of Evidence, together with the documents relevant to its tax amnesty.⁹

⁴ 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. Approved on May 24, 2007.

⁵ *Rollo*, pp. 32-33.

⁶ *Id.* at 33.

⁷ *Id.*

⁸ *Id.* at 37.

⁹ *Id.*

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The CTA then required the parties to submit their respective memoranda within 30 days. The case was submitted for decision upon the parties' compliance.¹⁰

Ruling of the CTA Second Division

In a Decision dated July 27, 2010, the CTA Second Division partially granted the petitions of CEPHI with respect to the deficiency VAT and MCIT assessments for 2001. Since tax amnesty does not extend to withholding agents with respect to their withholding tax liabilities,¹¹ the CTA Second Division ruled, after computation, that CEPHI is liable to pay the amount of ₱131,791.02 for the deficiency EWT assessment, plus additional deficiency and delinquency interest. The dispositive portion of this decision states:¹²

WHEREFORE, the instant Petitions for Review are hereby PARTIALLY GRANTED. Accordingly, the deficiency [VAT] and deficiency [MCIT] assessments for taxable year 2001 issued against petitioner are CANCELLED and WITHDRAWN.

However, petitioner is ORDERED TO PAY respondent the amount of ONE HUNDRED THIRTY-ONE THOUSAND SEVEN HUNDRED NINETY-ONE PESOS AND 02/100 (P131,791.02), representing deficiency [EWT], including the twenty-five percent (25%) surcharge imposed thereon.

Likewise, petitioner is ORDERED TO PAY:

(a) deficiency interest at the rate of twenty percent (20%) *per annum* on the basic deficiency EWT of P29,415.00 computed from November 16, 2005 until full payment thereof pursuant to Section 249(B) of the NIRC of 1997; and

(b) delinquency interest at the rate of 20% *per annum* of P131,791.02 which is the total amount still due and on the 20% deficiency interest which have accrued as afore-stated in paragraph (a) computed from January 10, 2005 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997.

SO ORDERED.¹³

¹⁰ Id.

¹¹ R.A. No. 9480, Section 8(1).

¹² Rollo, pp. 108-109.

¹³ Id.



The CIR moved for the reconsideration of this decision, which the CTA Second Division denied in its Resolution¹⁴ dated December 13, 2010:

WHEREFORE, premises considered, respondent's "Motion for Reconsideration" is hereby DENIED for lack of merit.

SO ORDERED.¹⁵

Unsatisfied with the ruling of the CTA Second Division, the CIR elevated the matter to the CTA *en banc* through a Petition for Review dated January 4, 2011, pursuant to R.A. No. 1125,¹⁶ as amended by R.A. No. 9282¹⁷ and R.A. No. 9503.¹⁸ The sole issue raised in the CIR's appeal was whether the CTA Second Division erred in upholding the validity of the tax amnesty availed by CEPHI. The CIR was of the position that CEPHI is not entitled to the immunities and privileges under R.A. No. 9480 because its documentary submissions failed to comply with the requirements under the tax amnesty law.¹⁹

Ruling of the CTA *En Banc*

Finding the CIR's petition for review unmeritorious, the CTA *en banc* denied the appeal in the assailed Decision²⁰ dated March 30, 2012:

WHEREFORE, the Petition for Review filed by [CIR] is hereby DENIED for lack of merit. The Decision dated July 27, 2010 and Resolution dated December 13, 2010 are hereby AFFIRMED. Deficiency [VAT] and Deficiency [MCIT] in taxable year 2001 remain CANCELLED and WITHDRAWN. Respondent, however, is ORDERED TO PAY the amount of ONE HUNDRED THIRTY-ONE THOUSAND SEVEN HUNDRED NINETY-ONE PESOS AND 02/100 (P131,791.02), representing deficiency [EWT], including the twenty-five (25%) surcharge imposed thereon. Likewise, respondent is ORDERED TO PAY:

- (a) deficiency interest at the rate of twenty percent (20%) *per annum* on the basic deficiency EWT of P29,415.00 computed from November 16, 2005 until full payment thereof pursuant to Section 249(B) of the NIRC of 1997; and

¹⁴ Id. at 128-132.

¹⁵ Id. at 132.

¹⁶ AN ACT CREATING THE COURT OF TAX APPEALS. Approved on June 16, 1954.

¹⁷ AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES. Approved on March 30, 2004.

¹⁸ AN ACT ENLARGING THE ORGANIZATIONAL STRUCTURE OF THE COURT OF TAX APPEALS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES. Approved on June 12, 2008.

¹⁹ *Rollo*, pp. 40-43.

²⁰ Id. at 30-54.

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(b) delinquency interest at the rate of 20% *per annum* of P131,791.02 which is the total amount still due and on the 20% deficiency interest which have accrued as afore-stated in paragraph (a) computed from January 10, 2005 until full payment thereof, pursuant to Section 249(c) of the NIRC of 1997.

SO ORDERED.²¹

The CTA *en banc* upheld the ruling that, without any evidence that CEPHI's net worth was underdeclared by at least 30%, there is a presumption of compliance with the requirements of the tax amnesty law. For this reason, CEPHI may immediately enjoy the privileges of the tax amnesty program.²² The CIR disagreed with this decision, and on April 23, 2012, it moved for the reconsideration of the CTA *en banc*'s decision.

The CIR's motion for reconsideration was denied in the assailed CTA *en banc* Resolution²³ dated August 16, 2012:

WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.²⁴

Prompted by the denial of their petition for review and motion for reconsideration, the CIR elevated the matter to this Court, by again assailing the validity of CEPHI's tax amnesty. The CIR reiterated its argument that CEPHI's failure to provide complete information in its Statement of Assets, Liabilities and Net worth (SALN), particularly the columns requiring the *Reference* and *Basis of Valuation*, is sufficient basis to disqualify CEPHI from the tax amnesty program.²⁵ The CIR also alleged that there is no period of limitation in challenging CEPHI's compliance with the requirements of the tax amnesty program.²⁶

Ruling of this Court

The Court dismisses the petition.

²¹ Id. at 52-53.

²² Id. at 51-52.

²³ Id. at 55-57.

²⁴ Id. at 56-57.

²⁵ Id. at 16-23.

²⁶ Id. at 23-26.

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CEPHI is entitled to the immunities and privileges of the tax amnesty program upon full compliance with the requirements of R.A. No. 9480.

R.A. No. 9480 governs the tax amnesty program for national internal revenue taxes for the taxable year 2005 and prior years.²⁷ Subject to certain exceptions,²⁸ a taxpayer may avail of this program by complying with the documentary submissions to the Bureau of Internal Revenue (BIR) and thereafter, paying the applicable amnesty tax.²⁹

The implementing rules and regulations of R.A. No. 9480, as embodied in Department of Finance (DOF) Department Order No. 29-07,³⁰ laid down the procedure for availing of the tax amnesty:

SEC. 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. [SALN] as of December 31, 2005 in such forms, as may be prescribed by the BIR.
 - c. Tax Amnesty Return in such form as may be prescribed by the BIR.
2. **Place of Filing of Amnesty Tax Return.** – The Tax Amnesty Return, together with the other documents stated in Sec. 6 (1) hereof, shall be filed as follows:
 - a. Residents shall file with the Revenue District Officer (RDO)/Large Taxpayer District Office of the BIR which has jurisdiction over the legal residence or principal place of business of the taxpayer, as the case may be.
 - b. Non-residents shall file with the office of the Commissioner of the BIR, or with the RDO.
 - c. At the option of the taxpayer, the RDO may assist the taxpayer in accomplishing the forms and computing the taxable base and the amnesty tax payable, but may not look into, question or examine the veracity of the entries contained in the Tax Amnesty Return, [SALN], or such other documents submitted by the taxpayer.
3. **Payment of Amnesty Tax and Full Compliance.** - Upon filing of the Tax Amnesty Return in accordance with Sec. 6 (2) hereof, the taxpayer shall pay the amnesty tax to the authorized agent bank or in the absence thereof, the Collection Agents or duly authorized Treasurer of the city or municipality in which such person has his legal residence or principal place of business.

²⁷ R.A. No. 9480, Section 1.

²⁸ Id. at Section 8.

²⁹ Id. at Section 2.

³⁰ Rules and Regulations to Implement Republic Act No. 9480 (August 15, 2007).

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The RDO shall issue sufficient Acceptance of Payment Forms, as may be prescribed by the BIR for the use of-or to be accomplished by – the bank, the collection agent or the Treasurer, showing the acceptance by the amnesty tax payment. In case of the authorized agent bank, the branch manager or the assistant branch manager shall sign the acceptance of payment form.

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.**

4. ***Time for Filing and Payment of Amnesty Tax.*** – The filing of the Tax Amnesty Return, together with the SALN, and the payment of the amnesty tax shall be made within six (6) months from the effectivity of these Rules.³¹ (Emphasis and underscoring Ours)

Upon the taxpayer's full compliance with these requirements, the taxpayer is immediately entitled to the enjoyment of the immunities and privileges of the tax amnesty program.³² But when: (a) the taxpayer fails to file a SALN and the Tax Amnesty Return; or (b) the net worth of the taxpayer in the SALN as of December 31, 2005 is *proven* to be understated to the extent of 30% or more, the taxpayer shall cease to enjoy these immunities and privileges.³³

The underdeclaration of a taxpayer's net worth, as referred in the second instance above, is proven through: (a) proceedings initiated by parties other than the BIR or its agents, within one (1) year from the filing of the SALN and the Tax Amnesty Return; or (b) findings or admissions in congressional hearings or proceedings in administrative agencies, and in courts. Otherwise, the taxpayer's SALN is presumed true and correct.³⁴ The tax amnesty law thus places the burden of overturning this presumption to the parties who claim that there was an underdeclaration of the taxpayer's net worth.

In this case, it is undisputed that CEPHI submitted all the documentary requirements for the tax amnesty program.³⁵ The CIR argued, however, that CEPHI cannot enjoy the privileges attendant to the tax amnesty program because its SALN failed to comply with the requirements of R.A. No. 9480. The CIR specifically points to CEPHI's supposed omission of the information relating to the *Reference* and *Basis for Valuation* columns in CEPHI's original and amended SALNs.³⁶

³¹ DOF Department Order No. 29-07, Rule III, Section 6.

³² R.A. No. 9480, Section 6; DOF Department Order No. 29-07, Rule V, Section 10; See also *CIR v. Apo Cement Corporation*, G.R. No. 193381, February 8, 2017.

³³ Id.

³⁴ R.A. No. 9480, Section 4; DOF Department Order No. 29-07, Rule IV, Section 9.

³⁵ *Rollo*, p. 100.

³⁶ Id. at 23.

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The required information that should be reflected in the taxpayer's SALN is enumerated in Section 3 of R.A. No. 9480.³⁷ The essential contents of the SALN are also itemized under the implementing rules and regulations as follows:

SEC. 8. Contents of the SALN. – The SALN shall contain a true and complete declaration of assets, liabilities and networth of the taxpayer as of December 31, 2005, as follows:

1. Assets within or without the Philippines, whether real or personal, tangible or intangible, whether or not used in trade or business:
 - a. Real properties shall be accompanied by a description of their classification, exact location, and valued at acquisition cost, if acquired by purchase or the zonal valuation or fair market value, whichever is higher, if acquired through inheritance or donation;
 - b. Personal properties other than money, shall be accompanied by a specific description of the kind and number of assets (i.e. automobiles, shares of stock, etc.) or other investments, indicating the acquisition cost less depreciation or amortization, in proper cases, if acquired by purchase, or the fair market price or value at the time of receipt, if acquired through inheritance or donations;
 - c. Assets denominated in foreign currency shall be converted into the corresponding Philippine currency equivalent, at the rate of exchange prevailing as of December 31, 2005; and
 - d. Cash on hand and in bank in peso as of December 31, 2005, as well as Cash on Hand and in Bank in foreign currency, converted to peso as of December 31, 2005.
2. All existing liabilities which are legitimate and enforceable, secured and unsecured, whether or not incurred in trade or business, disclosing or indicating clearly the name and address of the creditor and the amount of the corresponding liability.
3. The total networth of the taxpayer, which shall be difference between the total assets and total liabilities.

³⁷ **SEC. 3. What to Declare in the SALN.** — The SALN shall contain a declaration of the assets, liabilities and networth as of December 31, 2005, as follows:

1. Assets within or without the Philippines, whether real or personal, tangible or intangible, whether or not used in trade or business: *Provided*, That property other than money shall be valued at the cost at which the property was acquired: *Provided*, further, That foreign currency assets and/or securities shall be valued at the rate of exchange prevailing as of the date of the SALN;

2. All existing liabilities which are legitimate and enforceable, secured or unsecured, whether or not incurred in trade or business; and

3. The networth of the taxpayer, which shall be the difference between the total assets and total liabilities.



It is evident from CEPHI's original and amended SALN that the information statutorily mandated in R.A. No. 9480 were all reflected in its submission to the BIR. While the columns for *Reference* and *Basis for Valuation* were indeed left blank, **CEPHI attached schedules to its SALN (Schedules 1 to 7), both original and amended, which provide the required information under R.A. No. 9480 and its implementing rules and regulations.**³⁸ A review of the SALN form likewise reveals that the information required in the *Reference* and *Basis for Valuation* columns are actually the specific description of the taxpayer's declared assets. As such, these were deemed filled when CEPHI referred to the attached schedules in its SALN. On this basis, the CIR cannot disregard or simply set aside the SALN submitted by CEPHI.

More importantly, CEPHI's SALN is presumed true and correct, pursuant to Section 4 of R.A. No. 9480.³⁹ This presumption may be overturned if the CIR is able to establish that CEPHI understated its net worth by the required threshold of at least 30%.

However, aside from the bare allegations of the CIR, there is no evidence on record to prove that the amount of CEPHI's net worth was understated. Parties other than the BIR or its agents did not initiate proceedings within one year from the filing of the SALN or Tax Amnesty Return, in order to challenge the net worth of CEPHI. Neither was the CIR able to establish that there were findings or admissions in a congressional, administrative, or court proceeding that CEPHI indeed understated its net worth by 30%.

As the Court previously held in *CS Garment, Inc. v. CIR*,⁴⁰ taxpayers are eligible to the immunities of the tax amnesty program as soon as they fulfill the suspensive conditions imposed under R.A. No. 9480:

A careful scrutiny of the 2007 Tax Amnesty Law would tell us that the law contains two types of conditions – one suspensive, the other resolutive. Borrowing from the concepts under our Civil Code, a condition may be classified as *suspensive* when the fulfillment of the condition results in the acquisition of rights. On the other hand, a condition may be considered *resolutive* when the fulfillment of the condition results in the extinguishment of rights. In the context of tax amnesty, the rights referred to are those arising out of the privileges and immunities granted under the applicable tax amnesty law.

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This clarification, however, does not mean that the amnesty taxpayers would go scot-free in case they substantially understate the amounts of their net worth in their SALN. The 2007 Tax Amnesty Law

³⁸ *Rollo*, pp. 111-126.

³⁹ *Supra* note 34.

⁴⁰ 729 Phil. 253, 267 (2014).

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imposes a resolutive condition insofar as the enjoyment of immunities and privileges under the law is concerned. Pursuant to Section 4 of the law, third parties may initiate proceedings contesting the declared amount of net worth of the amnesty taxpayer within one year following the date of the filing of the tax amnesty return and the SALN. Section 6 then states that "All these immunities and privileges shall not apply x x x where the amount of networth as of December 31, 2005 is proven to be understated to the extent of thirty percent (30%) or more, in accordance with the provisions of Section 3 hereof." Accordingly, Section 10 provides that amnesty taxpayers who willfully understate their net worth shall be (a) liable for perjury under the Revised Penal Code; and (b) subject to immediate tax fraud investigation in order to collect all taxes due and to criminally prosecute those found to have willfully evaded lawful taxes due.⁴¹ (Emphasis Ours)

Considering that CEPHI completed the requirements and paid the corresponding amnesty tax, it is considered to have totally complied with the tax amnesty program. As a matter of course, CEPHI is entitled to the immediate enjoyment of the immunities and privileges of the tax amnesty program.⁴² Nonetheless, the Court emphasizes that the immunities and privileges granted to taxpayers under R.A. No. 9480 is *not* absolute. **It is subject to a resolutive condition insofar as the taxpayers' enjoyment of the immunities and privileges of the law is concerned.** These immunities cease upon proof that they underdeclared their net worth by 30%.

Unfortunately for the CIR, however, there is no such proof in CEPHI's case. The Court, thus, finds it necessary to deny the present petition. While tax amnesty is in the nature of a tax exemption, which is strictly construed against the taxpayer,⁴³ the Court cannot disregard the plain text of R.A. No. 9480.

WHEREFORE, premises considered, the petition is **DENIED** for lack of merit. The Decision dated March 30, 2012 and Resolution dated August 16, 2012 of the CTA *en banc* in CTA EB Case No. 713 are **AFFIRMED**.

SO ORDERED.


ANDRES B. REYES, JR.
Associate Justice

⁴¹ Id. at 271-272.

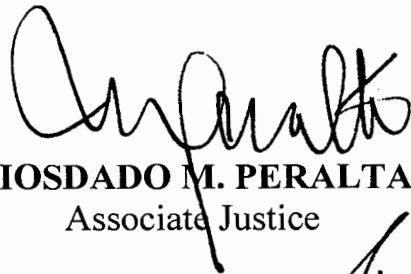
⁴² DOF Department Order No. 29-07, Rule III, Section 6(3).

⁴³ *Philippine Banking Corp. v. CIR*, 597 Phil. 363, 388 (2009).

WE CONCUR:



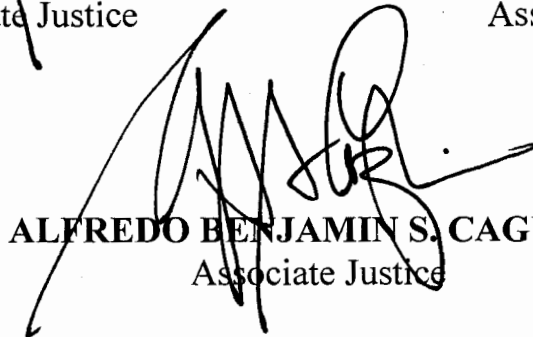
ANTONIO T. CARPIO
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

