

SECOND DIVISION

[G.R. No. 203160, January 24, 2018]

**COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS.
COVANTA ENERGY PHILIPPINE HOLDINGS, INC., RESPONDENT.**

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 Decision^[2] dated March 30, 2012 and Resolution^[3] 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 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 P465,593.21 and P288,903.78, or an aggregate amount of P754,496.99, 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 P467,801.99, 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]

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 P131,791.02 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]

The CIR moved for the reconsideration of this decision, which the CTA Second Division denied in its Resolution^[14] 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. 9282^[17] 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 Decision^[20] 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
- (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* Resolution^[23] 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.

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.

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