

SECOND DIVISION

[G.R. No. 165451, December 03, 2014]

**LG ELECTRONICS PHILIPPINES, INC., PETITIONER, VS.
COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.**

D E C I S I O N

LEONEN, J.:

This case involves the determination of whether petitioner LG Electronics Philippines, Inc. is entitled to the immunities and privileges granted under Tax Amnesty Act of 1997.

This is a Petition for Review on Certiorari^[1] assailing the Court of Tax Appeals' Decision^[2] dated May 11, 2004 and Resolution^[3] dated September 22, 2004.

LG Electronics Philippines, Inc. (LG) is a corporation duly organized and existing under the laws of the Philippines.^[4]

On March 21, 1998, LG received a formal assessment notice and demand letter from the Bureau of Internal Revenue. LG was assessed deficiency income tax of P267,365,067.41 for the taxable year of 1994.^[5]

The deficiency was computed on the basis of (a) disallowed interest expenses for being unsupported; (b) disallowed salary expenses for not being subjected to withholding tax on compensation; (c) imputation of alleged undeclared sales; and (d) disallowed brokerage fees for not being subjected to expanded withholding tax.

^[6] The Commissioner of Internal Revenue computed the deficiency as follows:^[7]

Net Business Income		P105,639,471.00
Add: Discrepancies		
Interest Expense-lack of proofs		24,515,117.00
Salaries Expense- unreconciled		<u>9,586,097.35</u>
Undeclared Sales		
Sales per	P844,238,605.12	
investigation		
Sales per return	<u>836,509,217.00</u>	<u>7,729,388.12</u>
Brokerage, other charges-not subjected to EWT		346,091,296.47
Taxable Income		<u>P493,561,369.94</u>
Tax Due		P172,746,479.48
Less: Tax Paid		<u>36,235,307.00</u>

Deficiency Tax	P136,511,172.48
Add:25% Surcharge	34,127,793.12
Interest 4-16-95 to 2-16-98	96,701,101.81
Compromise	<u>25,000.00</u>
TOTAL AMOUNT DUE & COLLECTIBLE	<u>P267,365,067.41</u>

LG, through its external auditor, Sycip Gorres Velayo & Company (SGV), filed on April 17, 1998 an administrative protest with the Bureau of Internal Revenue against the tax assessment.^[8]

On June 16, 1998, LG filed a supplemental protest. It requested for a reconsideration and reinvestigation of the tax assessment. It claimed that the assessment did not have factual and legal bases. LG also subsequently submitted supporting documents.^[9]

Without waiting for the Commissioner of Internal Revenue's resolution of the protest, LG filed a Petition for Review before the Court of Tax Appeals on January 11, 1999.^[10]

The Commissioner of Internal Revenue argued before the Court of Tax Appeals that the assessment issued was in accordance with law since the interest expenses claimed by LG were unsupported by sufficient proof. LG had undeclared income. Brokerage fees and other charges were not subjected to expanded withholding tax. Moreover, the details in the assessment notice substantially complied with the provisions of Section 228 of the Tax Code, the taxpayer having been informed in writing of the law and the facts on which the assessment was based.^[11]

Meanwhile, the Commissioner of Internal Revenue issued the Report dated March 3, 1999, which recommended the reduction of LG's liability for deficiency income tax to P10,557,736.28.^[12]

In its Decision dated May 11, 2004, the Court of Tax Appeals ruled that LG was liable for the payment of P27,181,887.82, representing deficiency income tax for taxable year 1994, including 20% delinquency interest computed from March 18, 1998.^[13]

According to the Court of Tax Appeals, "[w]hile petitioner submitted documents to substantiate its interest expense by bank statements, bank debit memoranda and letters of authority to debit its account, computations of interest and bank reconciliation, it failed to submit in evidence a vital document, which is the loan agreement. Except for a photocopy of a pre-marked document . . . [,]the court is unable to find any document purporting to be a loan agreement."^[14]

The Court of Tax Appeals summarized LG's deficiency income tax:^[15]

Net Business Income	P
	105,639,471.00

Add: Discrepancies		
Interest Expense-lack of proofs		24,515,117.00
Salaries Expense-unreconciled		8,746,877.00
Brokerage, other charges not subjected to EWT		<u>4,292,200.43</u>
Taxable Income		<u>P 143,193,665.43</u>
Tax Due		P 50,117,782.90
Less: Tax Paid		<u>36,235,307.00</u>
Deficiency Tax		P 13,882,475.90
Add: 25% Surcharge		3,470,618.98
Interest 4-16-95 to 2-16-98		<u>9,828,792.94</u>
TOTAL AMOUNT DUE & COLLECTIBLE		<u>P 27,181,887.82</u>

The dispositive portion of the Court of Tax Appeals' decision reads:

Accordingly, petitioner is **ORDERED** to **PAY** the respondent Commissioner of Internal Revenue the amount of P27,181,887.82 representing petitioner's deficiency income tax for the taxable year 1994, plus 20% delinquency interest from March 18, 1998 until the amount is fully paid pursuant to Section 249(c)(3) of the 1994 Tax Code.

SO ORDERED. ^[16]

LG filed a Motion for Partial Reconsideration^[17] on June 4, 2004. On September 22, 2004, the Court of Tax Appeals partially granted the Motion.^[18] It reduced LG's liability to P27,054,879.11.^[19] The liability was reduced as follows:^[20]

Net Business Income		P105,639,471.00
Add: Discrepancies		
Interest Expense-lack of proofs		24,515,117.00
Salaries Expense-unreconciled		8,746,877.00
Brokerage, Other Charges not subjected to EWT	P 4,292,200.43	
Less: Charges that should not be subjected to EWT	<u>185,333.01</u>	<u>4,106,867.42</u>
Taxable Income		<u>P 143,008,332.42</u>
Tax Due		P 50,052,916.35
Less: Tax Paid		<u>36,235,307.00</u>

Deficiency Tax	13,817,609.35
Add:25% Surcharge	3,454,402.34
Interest 4-16-95 to 2-16-96 [sic]	<u>9,782,867.42</u>
TOTAL AMOUNT DUE & COLLECTIBLE	<u>P 27,054,879.11</u>

On November 18, 2004, LG filed the present Petition for Review on Certiorari.^[21] On January 19, 2005, the Commissioner of Internal Revenue was required to file its Comment.^[22] This Comment^[23] was noted on March 1, 2006.^[24] Petitioner was then required to submit its Reply.^[25] After receipt of its Reply,^[26] this court resolved to require the parties to submit their Memoranda.^[27]

Petitioner filed a Manifestation dated January 29, 2008 stating that it availed itself of the tax amnesty provided under Republic Act No. 9480^[28] by paying the total amount of P8,647,565.50.^[29] In addition, the Bureau of Internal Revenue, through Assistant Commissioner James Roldan, issued a ruling^[30] on January 25, 2008, which held that petitioner complied with the provisions of Republic Act No. 9480.^[31] Petitioner is, thus, entitled to the immunities and privileges provided for under the law including "civil, criminal or administrative penalties under the National Internal Revenue Code of 1997 . . . arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years."^[32]

The following documents were attached to petitioner's manifestation: (1) Notice of Availment of Tax Amnesty;^[33] (2) Tax Amnesty Return (BIR Form No. 2116);^[34] (3) Tax Amnesty Payment Form (BIR Form No. 0617);^[35] (4) Statement of Assets, Liabilities and Net Worth (SALN);^[36] and (5) BTR-BIR deposit slip.^[37]

Respondent was required to comment on the Manifestation within 10 days from notice.^[38] According to respondent, petitioner cannot claim the tax amnesty provided under Republic Act No. 9480 for the following reasons: (1) accounts receivable by the Bureau of Internal Revenue as of the date of amnesty are not covered since these constitute government property; (2) cases that have already been favorably ruled upon by the trial court or appellate courts prior to the availment of tax amnesty are not covered; and (3) petitioner's case involves withholding taxes that are not covered by the Tax Amnesty Act.^[39]

The parties raised the following original issues in their pleadings:

- (1) Whether questions of fact may be touched upon in a Petition for Review on Certiorari under Rule 45 of the Rules of Court;
 - i. Whether . . . the Honorable Court of Tax Appeals, while holding the amount of P120,985.99 as a valid deduction representing a portion of employees benefits, erred in disallowing the amount of P1,754,860.36 as deduction from the gross income for alleged failure of the petitioner to properly and substantially support the same by evidence[;] [and]

- ii. Whether . . . the Honorable Court of Tax Appeals, while holding the amount of P185,333.01 as a valid deduction representing brokerage fees not subject to 5% withholding tax, erred in disallowing expenses for allege[d] failure of the petitioner to duly support the claim with official receipts^[40]
- (2) Whether the Court of Tax Appeals erred in ruling that interest expense is deductible from gross income only if supported by a written agreement of the indebtedness, which includes a stipulation for the payment of interest; and
- (3) Whether the Court of Tax Appeals erred in ruling that LG Electronics cannot claim the amount of P6,989,338.00 as deduction from its gross income for alleged failure to withhold income tax on accrued bonuses.

However, in view of petitioner's Manifestation stating that it availed of the tax amnesty provided under Republic Act No. 9480, the only issue for disposition is whether petitioner is entitled to the immunities and privileges under the Tax Amnesty Law or Republic Act No. 9480.

We deny the Petition for being moot and academic.

I

Petitioner claimed that it perfected the availment of tax amnesty under Republic Act No. 9480 when it paid the correct amount and submitted the required documents. It also relied on the Bureau of Internal Revenue's ruling dated January 25, 2008, which categorically ruled on petitioner's tax amnesty. Pertinent provisions of the ruling state:

*On the basis of the foregoing, LGE should pay a tax amnesty rate equivalent to five percent (5%) of its total declared networth as of Balance Sheet dated December 31, 2005. Per attached certified true copy of Balance Sheet of LGE dated December 31, 2005, LGE has a total declared networth of *One Hundred Seventy Two Million Nine Hundred Fifty One Thousand Three Hundred Ten Pesos (P172,951,310.00)*. As such, LGE is liable for the amount of *Eight Million Six Hundred Forty Seven Thousand Five Hundred Sixty Five Pesos and Fifty Centavos (P8,647,565.50)*.*

*It appears that LGE initially paid the amount of *Five Hundred Thousand Pesos (P500,000.00)* on October 26, 2007 when it first availed of the tax amnesty and it subsequently paid the amount of *Eight Million One Hundred Forty Seven Thousand Five Hundred Sixty Five Pesos and Fifty Centavos (P8,147,565.50)* on January 11, 2008 when it amended its tax amnesty returns. As such, LGE has fully paid its liabilities under the Act.*

. . . .

Considering that LGE has paid the amnesty tax due for corporation and has submitted its tax amnesty forms to Revenue District Office No. 47 of