

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY

**EN BANC**

\*\*\*\*\*

COMMISSIONER OF  
INTERNAL REVENUE,  
Petitioner,

CTA EB No. 2437  
(CTA Case No. 9338)

*Present:*


DEL ROSARIO, P.J.,  
CASTAÑEDA, JR.,  
UY,  
RINGPIS-LIBAN,  
MANAHAN,  
BACORRO-VILLENA,  
MODESTO-SAN PEDRO,  
REYES-FAJARDO, and  
CUI-DAVID, JJ.

- versus -

WESTERN GUARANTY  
CORPORATION,  
Respondent.

*Promulgated:*

APR 20 2022

 10:22 a.m.

x ----- x

**DECISION**

UY, J.:

Before this Court is the *Petition for Review*<sup>1</sup> filed on February 26, 2021 by petitioner, Commissioner of Internal Revenue (CIR), against respondent, Western Guaranty Corporation (WGC), praying that the Decision<sup>2</sup> dated July 24, 2020 and Resolution<sup>3</sup> dated January 21, 2021, rendered by the First Division of this Court in CTA Case No. 9338, entitled, "*Western Guaranty Corporation, Petitioner vs. Commissioner of Internal Revenue, Respondent*" be reversed and set aside and another one be rendered ordering respondent to pay petitioner the assessed deficiency value-added tax (VAT), expanded withholding tax (EWT), final withholding VAT (FWVAT), and

<sup>1</sup> EB Docket, pp. 6 to 12.

<sup>2</sup> EB Docket, pp. 17 to 41.

<sup>3</sup> EB Docket, pp. 42 to 45.

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documentary stamp tax (DST). The dispositive portions thereof respectively read as follows:

**Decision dated July 24, 2020:**

**"WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is **PARTIALLY GRANTED.** The assessment issued by respondent against petitioner for TY 2011 covering the compromise penalty is **CANCELLED and SET ASIDE** while the assessments for deficiency VAT and DST and penalties on deficiency EWT and FFWAT are **UPHELD.**

Accordingly, petitioner is **ORDERED TO PAY** respondent the amount of **₱82,121,697.84** representing: (1) the basic deficiency VAT and DST for TY 2011, inclusive of the 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed under Sections 248 (A) (3), 249 (B) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, respectively; and, (2) the 25% surcharge on the basic deficiency EWT and FFWAT for TY 2011, inclusive of the 20% delinquency interest imposed under Section 249 (C) of the NIRC of 1997, as amended, computed until December 31, 2017, less the payments that have been made by petitioner, as shown below:

	<b>VAT</b>	<b>EWT</b>	<b>FFWAT</b>	<b>DST</b>	<b>Total</b>
Basic tax	₱15,456,297.06	₱ -	₱ -	₱14,160,478.66	₱29,616,775.72
Surcharge (25%)	3,864,074.27	861,573.20	11,145.91	3,540,119.67	8,276,913.05
Deficiency interest					
VAT - 26-Jan-2012 to 29-Dec-2015					
(₱15,456,297.06 x 20% x 1,434/365 days)	12,144,838.35	-	-	-	12,144,838.35
VAT — 30-Dec-2015 to 31-Mar-2016					
[(₱15,456,297.06 - 500,000.00) x 20% x 93/365 days]	762,156.51	-	-	-	762,156.51
EWT — 16-Jan-2012 to 18-May-2015					
(₱3,446,292.80 x 20% x 1,219/365 days)		2,301,934.75			2,301,934.75
EWT — 19-May-2015 to 29-Jun-2015					
[(₱3,446,292.80 -		14,873.59			14,873.59

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2,800,000) x 20% x 42/365 days]					
FWVAT — 11-Jan-2012 to 06-May-2015					
(P44,583.63 x 20% x 1,212/365 days]			29,608.42		29,608.42
DST — 06-Jan-2012 to 30-Jul-2015					
(P14,160,478.66 x 20% x 1,302/365 days)	-	-	-	10,102,434.64	10,102,434.64
DST — 31-Jul-2015 to 27-Aug-2015					
[(P14,160,478.66 - 1,000,000.00) x 20% x 28/365 days]	-	-	-	201,914.19	201,914.19
DST — 28-Aug-2015 to 30-Sep-2015					
[(P14,160,478.66 - 1,000,000.00 - 3,000,000.00) x 20% x 34/365 days]	-	-	-	189,291.11	189,291.11
DST — 01-Oct-2015 to 30-Oct-2015					
[(P14,160,478.66 - 1,000,000.00 - 3,000,000.00 - 2,000,000.00) x 20% x 30/365 days]	-	-	-	134,144.85	134,144.85
DST — 31-Oct-2015 to 27-Nov-2015					
[(P14,160,478.66 - 1,000,000.00 - 3,000,000.00 - 2,000,000.00 - 500,000.00) x 20% x 28/365 days]	-	-	-	117,530.63	117,530.63
DST — 28-Nov-2015 to 31-Mar-2016					
[(P14,160,478.66 - 1,000,000.00 - 3,000,000.00 - 2,000,000.00 - 500,000.00 - 1,000,000.00) x 20% x 125/365 days]	-	-	-	456,197.17	456,197.17
<b>Total amount due as of March 31, 2016</b>	<b>32,227,366.19</b>	<b>3,178,381.54</b>	<b>40,754.33</b>	<b>28,902,110.92</b>	<b>64,348,612.98</b>
Deficiency interest					
VAT — 01-Apr- 2016 to 31-Dec- 2017					
[(P15,456,297.06 - 500,000.00) x 20% x 640/365 days]	5,244,948.01	-	-	-	5,244,948.01

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DST — 01-Apr-2016 to 31-Dec-2017					
[(P14,160,478.66 – 1,000,000.00 – 3,000,000.00 – 2,000,000.00 – 500,000.00 – 1,000,000.00) x 20% x 640/365 days]	-	-	-	2,335,729.50	2,335,729.50
Delinquency interest					
VAT — 01-Apr-2016 to 31-Dec-2017					
(P32,227,366.19 x 20% x 640/365 days)	11,301,651.70	-	-	-	11,301,651.70
EWT — 01-Apr-2016 to 31-Dec-2017					
[P3,178,381.54 – 2,209,418.31) x 20% x 640/365 days]	-	339,800.80	-	-	339,800.80
FWVAT — 01-Apr-2016 to 31-Dec-2017					
[(P40,754.33 – 28,702.94) x 20% x 640/365 days]	-	-	4,226.24	-	4,226.24
DST — 01-Apr-2016 to 31-Dec-2017					
[(P28,902,110.92 – 1,000,000.00) x 20% x 640/365 days]	-	-	-	9,784,849.86	9,784,849.86
<b>Deficiency tax due as of December 31, 2017</b>	<b>48,773,965.90</b>	<b>3,518,182.34</b>	<b>44,980.57</b>	<b>41,022,690.28</b>	<b>93,359,819.09</b>
Less: Payments made on the following dates					
29-Dec-2015	500,000.00	-	-	-	500,000.00
29-Jun-2015	-	2,209,418.31	-	-	2,209,418.31
06-May-2015	-	-	28,702.94	-	28,702.94
30-Jul-2015	-	-	-	1,000,000.00	1,000,000.00
27-Aug-2015	-	-	-	3,000,000.00	3,000,000.00
30-Sep-2015	-	-	-	2,000,000.00	2,000,000.00
30-Oct-2015	-	-	-	1,500,000.00	1,500,000.00
27-Nov-2015	-	-	-	1,000,000.00	1,000,000.00
<b>Total payments made</b>	<b>500,000.00</b>	<b>2,209,418.31</b>	<b>28,702.94</b>	<b>8,500,000.00</b>	<b>11,238,121.25</b>
<b>Remaining amount due as of December 31, 2017</b>	<b><u>P48,273,965.90</u></b>	<b><u>P1,308,764.03</u></b>	<b><u>P16,277.63</u></b>	<b><u>P32,522,690.28</u></b>	<b><u>P82,121,697.84</u></b>

In addition, petitioner is liable to pay delinquency interest at the rate of twelve percent (12%) per annum on the total amount due as of March 31, 2016 less payments made before March 31, 2016 totaling P53,110,491.73, as

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summarized below, computed from January 1, 2018 until full payment thereof pursuant to Section 249 (C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN) Law, and as implemented by Revenue Regulations No. 21-2018.

	<b>VAT</b>	<b>EWT</b>	<b>FWVAT</b>	<b>DST</b>	<b>Total</b>
Total amount due as of March 31, 2016	₱32,227,366.19	₱3,178,381.54	₱40,754.33	₱28,902,110.92	₱64,348,612.98
Less: Payments made before March 31, 2016	500,000.00	2,209,418.31	28,702.94	8,500,000.00	11,238,121.25
<b>Base amount of 12% delinquency interest</b>	<b>₱31,727,366.19</b>	<b>₱968,963.23</b>	<b>₱12,051.39</b>	<b>₱20,402,110.92</b>	<b>₱53,110,491.73</b>

**SO ORDERED.”**

**Resolution dated January 21, 2021:**

“**WHEREFORE**, premises considered, petitioner’s *Motion for Reconsideration* and respondent’s *Motion for Partial Reconsideration Re: Decision dated 24 July 2020* are hereby **DENIED** for lack of merit.

**SO ORDERED.”**

**THE PARTIES**

Petitioner is the Commissioner of the Bureau of Internal Revenue (BIR), with office address at the BIR, Agham Road, Diliman, Quezon City, Philippines.

Respondent WGC is a domestic corporation duly organized and existing under Philippine laws, with principal office at Suite 508 BPI Office Condominium, Plaza Cervantes, Binondo, Manila, Philippines.

**THE FACTS**

The CIR issued the *Letter of Authority* (LOA) No. 125-2013-00000103/SN eLA201100007176 dated May 29, 2013, authorizing Revenue Officer Agnes Sison and Group Supervisor Edenny Lingan

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of the BIR's Large Taxpayers Regular Audit Division 2, to examine WGC's books of accounts and other accounting records for all internal revenue taxes, for the period covering January 1, 2011 to December 31, 2011.

On October 22, 2014, WGC received the *Preliminary Assessment Notice* (PAN) dated October 21, 2014, finding due from WGC deficiency income tax (IT), VAT, EWT, withholding tax on compensation (WTC), FWWAT and DST, including interests and compromise penalties, for taxable year 2011, in the total amount of ₱82,543,396.96, broken down as follows:

Income tax	₱24,503,517.64
VAT	24,211,553.48
Percentage tax	10,263.14
EWT	5,597,482.91
WTC	5,823,444.04
FVAT	78,367.01
DST	22,318,768.74
<b>Grand Total</b>	<b>₱82,543,396.96</b>

On November 5, 2014, WGC filed a letter rebutting the findings stated in the PAN.

Subsequently, on March 10, 2015, WGC received the CIR's *Final Assessment Notice* (FAN) dated March 5, 2015 with attached Assessment Notices and Details of Discrepancies, all dated March 5, 2015, assessing WGC with deficiency IT, VAT, percentage tax, EWT, FWWAT, and DST, including interests and compromise penalties, for taxable year 2011, in the total amount of ₱68,415,353.83, computed as follows:

Income tax	₱14,040,158.27
VAT	25,305,319.47
Percentage tax	8,654.01
EWT	5,655,711.11
FWWAT	81,786.57
DST	23,323,724.40
<b>Grand Total</b>	<b>₱68,415,353.83</b>

On March 16, 2015, WGC filed a *Request for Reconsideration/Reinvestigation* to the said FAN.



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On March 29, 2016, WGC received the *Final Decision on Disputed Assessment (FDDA)* with Details of Discrepancies and Audit Results/Assessment Notices, all dated March 18, 2016, finding WGC liable for deficiency VAT and DST, compromise penalty, interests and surcharges for EWT and FWWAT for taxable year 2011 in the total amount of ₱53,434,094.30, broken down as follows:

VAT	₱31,745,790.74
DST	20,687,133.33
EWT	989,144.86
FWWAT	12,025.37
<b>Grand Total</b>	<b>₱53,434,094.30</b>

The IT and percentage tax were not anymore included in the abovementioned FDDA because of the adjustments made by the CIR and WGC, respectively. WGC also made a series of partial payments on several deficiency taxes in the FAN.

Thereafter, WGC filed a *Petition for Review* before the Court in Division on April 28, 2016 docketed as CTA Case No. 9338 entitled "*Western Guaranty Corporation, petitioner, vs. Commissioner of Internal Revenue, respondent.*".

In his *Answer* in CTA Case No. 9338 filed on June 20, 2016, the CIR interposed the following special and affirmative defenses:

- 1) The formal assessment notice is valid for having informed WGC of the factual and legal bases of the assessment;
- 2) The CIR substantially complied with the requirements for assessment as provided in Section 228 of the Tax Code;
- 3) WGC was given ample opportunity to challenge the assessments in its protests against the PAN, FAN, and FDDA;
- 4) With regard to the assessed EWT and FWWAT, WGC already paid the assessed taxes. Only the interests and surcharges for delinquency are due from WGC;
- 5) WGC is estopped from contesting the assessment for EWT and FVAT; and
- 6) The assessment issued against WGC is valid and lawful.

After the pre-trial conference in CTA Case No. 9338 on October 11, 2016, and by agreement of the parties, they filed their *Joint Stipulation of Facts and Issues (JFSI)* on November 10, 2016. In the

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*Pre-Trial Order* dated December 14, 2016, the Court approved and adopted the said JFSI, and deemed the Pre-Trial terminated.

During trial, WGC presented its lone witness, Johnson Kwan, WGC's Vice-President.

On March 28, 2018, WGC filed its *Formal Offer of Evidence* while the CIR filed his *Comment Re: Petitioner's Formal Offer of Evidence* on April 23, 2018. In the Resolution dated May 25, 2018, the Court admitted WGC's exhibits, but denied admission of the following exhibits, to wit:

1. Exhibits "P-3," and "P-5," for failure to identify the same during trial;
2. Exhibits "P-6," "P-7," "P-8," and "P-9," for failure to submit the duly marked exhibits; and
3. Exhibits "P-10," and "P-11," for failure to present the originals for comparison.

On August 7, 2018, the CIR presented his sole witness, Revenue Officer Agnes I. Sison.

The CIR then filed his *Formal Offer of Evidence* on August 17, 2018. On December 19, 2018, WGC filed its *Comment on Respondent's Formal Offer of Evidence*. In the Resolution dated January 30, 2019, the Court in Division admitted the CIR's exhibits.


Subsequently, counsel for WGC manifested on May 2, 2019 that he would no longer present any rebuttal evidence and would rest his case. Accordingly, the Court in Division gave the parties a period of thirty (30) days or until June 1, 2019, within which to file their respective memorandum.

The CIR filed his *Memorandum* on June 3, 2019, while WGC's *Memorandum for the Petitioner* was filed on June 24, 2019. In the Resolution dated July 3, 2019, CTA Case No. 9338 was submitted for decision.

In the assailed Decision<sup>4</sup> dated July 24, 2020, the Court in Division partially granted the *Petition for Review*. The assessment issued against WGC for TY 2011 covering the compromise penalty was cancelled and set aside, but the assessments for deficiency VAT and DST and penalties on deficiency EWT and FVVAT were upheld.

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<sup>4</sup> EB Docket, pp. 17 to 41.





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WGC filed its *Motion for Reconsideration* on August 24, 2020, with the CIR's *Opposition (To Petitioner's Motion for Reconsideration dated 24 August 2020)* on September 28, 2020. Meanwhile, the CIR filed his *Motion for Partial Reconsideration Re: Decision dated 24 July 2020* on August 18, 2020, without WGC's *Comment*.

In the assailed Resolution<sup>5</sup> dated January 21, 2021, the Court in Division denied both parties' respective *Motions* for lack of merit.

Undaunted, the CIR filed a *Motion for Extension of Time to File Petition for Review* on February 10, 2021.<sup>6</sup> In the Minute Resolution<sup>7</sup> dated February 11, 2021, the subject Motion was granted and the CIR was given a final and non-extendible period of fifteen (15) days from February 12, 2021, or until February 27, 2021, within which to file his Petition for Review.

Thereafter, the CIR filed the instant *Petition for Review*<sup>8</sup> on February 26, 2021 praying that the assailed Decision dated June 30, 2020 be reversed and set aside and another one be rendered ordering WGC to pay petitioner the assessed deficiency VAT, EWT, FWWAT and DST, including compromise penalty for taxable year 2011.

On March 16, 2021, WGC was directed to file its comment to the instant *Petition for Review*, within ten (10) days from notice.<sup>9</sup>

WGC, however, failed to file its comment, as per *Records Verification*<sup>10</sup> dated June 14, 2021. Thereafter, the instant *Petition for Review* was submitted for Decision on June 23, 2021.<sup>11</sup> Hence, this decision.

## THE ISSUE

The CIR raises a sole ground in the instant *Petition for Review*, to wit:

"WITH ALL DUE RESPECT, THE HONORABLE  
COURT ERRED WHEN IT CANCELLED AND SET



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<sup>5</sup> EB Docket, pp. 42 to 45.

<sup>6</sup> EB Docket, pp. 1 to 4.

<sup>7</sup> EB Docket, p. 5.

<sup>8</sup> EB Docket, pp. 6 to 12.

<sup>9</sup> EB Docket, pp. 47 to 48.

<sup>10</sup> EB Docket, p. 49.

<sup>11</sup> EB Docket, pp. 51 to 52.

ASIDE THE COMPROMISE PENALTY FOR TAXABLE  
YEAR 2011.”<sup>12</sup>

***Petitioner's argument:***

The CIR contends that the Court in Division erred when it cancelled and set aside the compromise penalty for taxable year 2011.

According to petitioner, the imposition of the compromise penalty is legally mandated pursuant to Section 249 of the Tax Code. Moreover, in the case of *Commissioner of Internal Revenue vs. Filinvest Development Corporation*<sup>13</sup> (or the *Filinvest* case) the Honorable Supreme Court affirmed the imposition of surcharge, interest, and even the compromise penalty, viz:

“ x x x **The imposition of deficiency interest is justified under Sec. 249 (a) and (b) of the NIRC which authorizes the assessment of the same ‘at the rate of twenty percent (20%), or such higher rate as may be prescribed by regulations’, from the date prescribed for the payment of the unpaid amount of tax until full payment. The imposition of the compromise penalty is, in turn, warranted under Sec. 250 of the NIRC which prescribes the imposition thereof ‘in case of each failure to file an information or return, statement or list, or keep any record or supply any information required’ on the date prescribed therefor.**”

Hence, petitioner submits that the imposition of the compromise penalty is legal and warranted by the National Internal Revenue Code (NIRC) of 1997, as amended, in the instant case.

**THE COURT *EN BANC*'S RULING**

The instant *Petition for Review* lacks merit.

***WGC cannot be held liable for the compromise penalty.***

The CIR avers that WGC should be held liable for compromise penalties, citing Section 249 of the Tax Code, and the *Filinvest* case.

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<sup>12</sup> EB Docket, p. 8.

<sup>13</sup> G.R. No. 163653, July 19, 2011.

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We disagree.

A compromise penalty is a penalty imposed for violation of the provisions of the Tax Code.<sup>14</sup> In other words, a compromise penalty is paid by the taxpayer, in order to avoid prosecution for violations of the Tax Code.

The nature of a compromise penalty is explained in the case of *Commissioner of Internal Revenue vs. Armando L. Abad*,<sup>15</sup> to wit:

"(A) compromise implies **agreement**. One party cannot impose it upon the other. If an offer of compromise is rejected by the taxpayer, as in this case, the Commissioner of Internal Revenue should file a criminal action if he believes that the taxpayer is criminally liable for violation of the tax law as the only way to enforce a penalty. As penalty can be imposed only on a finding of criminal liability." (Emphasis supplied.)

From the foregoing, two (2) things are made clear: (a) there can be no compromise if there is no agreement between the parties; and (b) a compromise penalty can only be imposed on a finding of criminal liability.

Accordingly, it is a well-settled rule that a compromise penalty *cannot* be imposed or collected without the agreement or conformity of the taxpayer.<sup>16</sup> A compromise, after all, by its nature, is *mutual* in essence.<sup>17</sup> It cannot be imposed without a predicate agreement. Thus, the fact that the taxpayer protested the assessment could only signify that there was no agreement to speak of.<sup>18</sup>

In fact, the imposition of compromise penalties without the conformity of the taxpayer is considered illegal and unauthorized.<sup>19</sup>

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<sup>14</sup> *The Philippine International Fair, Inc. vs. The Collector of Internal Revenue*, G.R. Nos. L-12928 & L-12932, March 31, 1962.

<sup>15</sup> G.R. No. L-19627, June 27, 1968.

<sup>16</sup> *Wonder Mechanical Engineering Corporation, etc., vs. Court of Tax Appeals, et al.*, G.R. No. L-22805 & L-27858, June 30, 1975;

<sup>17</sup> *Dr. Felisa L. Vda. De San Agustin, et al, vs. Commissioner of Internal Revenue*, G.R. No. 138485, September 10, 2001.

<sup>18</sup> *Manila Bankers' Life Insurance Corporation vs. Commissioner of Internal Revenue*, G.R. Nos. 199729-30 and 199732-33, February 27, 2019.

<sup>19</sup> *Commissioner of Internal Revenue vs. Lianga Bay Logging Co., Inc. and the CTA*, G.R. No. L-35266, January 21, 1991.

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Applying the foregoing jurisprudential principles to this case, this Court agrees with the factual findings of the Court in Division that there is no showing that WGC ever consented to the compromise penalty. As a matter of fact, the point that WGC consistently protested the subject assessments meant that there was never any agreement to speak of.


In the absence of proof that WGC expressly consented or gave its conformity to the collection or payment of compromise penalties, there would be no basis for the imposition of compromise penalties in this case. Hence, the imposition of compromise penalties was correctly deleted by the Court in Division, as the imposition thereof is illegal, unauthorized, and done without WGC's conformity.

Anent petitioner's reliance on the *Filinvest* case, this Court finds the same to be misguided. In the said case, the Supreme Court did not squarely pass upon the issue of whether or not compromise penalties can be imposed, even without the consent of the taxpayer.

Considering that the propriety of the imposition of compromise penalties was not raised as an issue in the *Filinvest* case, the same cannot be considered as a binding precedent with regard to the issue at hand.

In the case of *Procter and Gamble Asia Pte Ltd. v. Commissioner of Internal Revenue*,<sup>20</sup> it was held that the doctrine of *stare decisis* does not apply when the Court does not make a categorical ruling on an issue expressly raised by the parties:

"The basic rule is that past decisions of this Court be followed in the adjudication of cases. However, for a ruling of this Court to come within this rule (known as *stare decisis*), the Court must categorically rule on an issue expressly raised by the parties; it must be a ruling on an issue directly raised. When the court resolves an issue merely *sub silentio*, *stare decisis* does not apply on the issue touched upon.

In fact, the same argument was struck down by this court in *San Roque-Taganito*. There, we held that, "[a]ny issue, whether raised or not by the parties, but not passed upon by the court, does not have any value as a precedent." 

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<sup>20</sup> G.R. No. 204277, May 30, 2016.

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At this juncture, this Court notes that the CIR's own issuances, from 1986 until the most recent one in 2018, are all consistent in recognizing that compromise penalties are in fact, *consensual* in nature, and may not therefore be imposed or exacted on the taxpayer, to wit:

<b>BIR Issuance</b>	<b>Subject</b>	<b>Pertinent portion/s</b>
BIR Memorandum No. 016-2018 dated March 15, 2018	Surcharge, Interest, and Compromise Penalty on Amended Returns	<p><u>"Compromise penalties are only amounts suggested by the BIR in settlement of criminal liability for violations committed by taxpayers, the payment of which is consensual in nature, and may not therefore be imposed or exacted on the taxpayer.</u>"</p> <p>Thus, in the event that a taxpayer refuses to pay the suggested compromise penalty, the violation shall be referred to the appropriate office for criminal action."</p>
Revenue Memorandum Circular No. 021-18 dated April 2, 2018	Circularizing Memorandum No. 016-2018 dated March 15, 2018 Regarding the Imposition of Surcharge, Interest and Compromise Penalty for Filing of an Amended Tax Return	BIR Memorandum No. 016-2018 was circularized and all internal revenue officials and employees were enjoined to be guided accordingly.
Revenue Memorandum Circular No. 054-18 dated May 29, 2018	Clarifying the Imposition of Penalties and Interest on the Filing of an Amended Return	<p>"x x x the Schedule of Compromise Penalties specified in RMO No. 19-2007, are only <u>amounts suggested by the Bureau of Internal Revenue in settlement of criminal liability for violations committed by taxpayers,</u> the payment of which are <u>consensual in nature, and may not therefore be imposed or exacted on the taxpayer.</u>"</p>
Revenue Memorandum Circular No.46-99 dated June 18, 1999	Computation of the Civil Penalties, Consisting of Surcharge and Interest, Incident to Deficiency or Delinquency Internal Revenue Taxes, Pursuant to	<p>"A compromise in extra-judicial settlement of the taxpayer's criminal liability for his violation is <u>consensual in character,</u> hence, <u>may not be imposed on the taxpayer without his consent.</u> The BIR <u>may only suggest</u> settlement of the taxpayer's liability through a compromise."</p>

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	Section 248 and 249 of the National Internal Revenue Code, as Amended by R.A. No. 8424; and Suggested Compromise Penalty in Extra-Judicial Settlement of a Taxpayer's Criminal Liability Incident to his Violation of Certain Provision of the Code, or any of its Implementing Revenue Regulations, Pursuant to Section 204 thereof	
Revenue Memorandum Order No. 007-15 dated January 22, 2015	The Revised Consolidated Schedule of Compromise Penalties for Violations of the National Internal Revenue Code	"5. Since <u>compromise penalties are only amounts suggested in settlement of criminal liability, and may not therefore be imposed or exacted on the taxpayer</u> , the violation shall be referred to the appropriate office for criminal action in the event that a taxpayer refuses to pay the suggested compromise penalty."
Revenue Memorandum Order No. 19-07 dated August 8, 2007	The Consolidated Revised Schedule of Compromise Penalties for Violations of the National Internal Revenue Code	"5. Since <u>compromise penalties are only amounts suggested in settlement of criminal liability, and may not therefore be imposed or exacted on the taxpayer</u> , the violation shall be referred to the appropriate office for criminal action in the event that a taxpayer refuses to pay the suggested compromise penalty."
Revenue Memorandum Order No. 01-90 dated November 28, 1989	Amendments to the Provisions of a "Revised Schedule of Compromise Penalties" for Internal Revenue Violations as Prescribed in RMO 26-86	"Since <u>compromise penalties are only amounts suggested in settlement of criminal liability, and may not therefore be imposed or exacted on the taxpayer</u> in the event that a taxpayer refuses to pay the suggested compromise penalty, the violation shall be referred for criminal action as heretofore mentioned."
Revenue	Adoption and Implementation of	"Since <u>compromise penalties are only amounts suggested in settlement of criminal liability, and may not</u>

Memorandum Order No. 26-86 dated August 18, 1986	a "Revised Schedule of Compromise Penalties" for Internal Revenue Violations	<b><u>therefore be imposed or exacted on the taxpayer</u></b> (Collector v. UST, supra; also Collector v. Bautista, 105 Phil. 1326; Phil. Int'l. Fair v. Collector, 4 SCRA 774), x x x."
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Accordingly, in the absence of any legal basis to support petitioner's contention that compromise penalties should be imposed, even in the absence of the taxpayer's acquiescence, this Court upholds the cancellation of the same.

In view of the foregoing disquisition, this Court finds no compelling reason to reverse or modify the findings of the court *a quo* in the assailed Decision and Resolution.

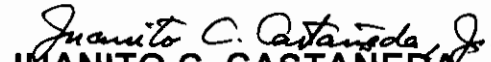
**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The assailed Decision dated July 24, 2020 and the Resolution dated January 21, 2021 rendered by the First Division of this Court in CTA Case No. 9338 are hereby **AFFIRMED**.

**SO ORDERED.**

  
**ERLINDA P. UY**  
Associate Justice

WE CONCUR:

  
**ROMAN G. DEL ROSARIO**  
Presiding Justice

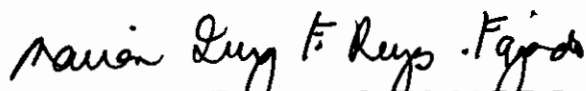
  
**JUANITO C. CASTANEDA, JR.**  
Associate Justice

  
**MA. BELEN M. RINGPIS-LIBAN**  
Associate Justice

  
**CATHERINE T. MANAHAN**  
Associate Justice

  
**JEAN MARIE A. BACORRO-VILLENA**  
Associate Justice

  
**MARIA ROWENA MODESTO-SAN PEDRO**  
Associate Justice

  
**MARIAN IVY F. REYES-FAJARDO**  
Associate Justice

  
**LANEE S. CUI-DAVID**  
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.

  
**ROMAN G. DEL ROSARIO**  
Presiding Justice