

UNITED STATES TAX COURT
WASHINGTON, DC 20217

PA

VISHAL MISHRA & RITU MISHRA,)
)
Petitioner(s),)
)
v.) Docket No. 16492-18.
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent)

ORDER AND DECISION

This case involves petitioners' Federal income tax liability for 2014 and 2015. The parties reached a settlement and filed with the Court a stipulation of settled issues. The stipulation stated that the settlement resolved all issues in the case and reflected concessions by both parties, including petitioners' concession that they were liable for accuracy-related penalties. Counsel for the Internal Revenue Service (IRS or respondent) obtained tax computations consistent with the settlement and sent petitioners' counsel a proposed decision document reflecting those computations. Petitioners declined to sign the decision document, stating that they no longer wish to concede the penalties. Respondent then filed a motion for entry of decision. We will grant respondent's motion and enter a decision consistent with his computations.

On May 25, 2018, the IRS issued petitioners a notice of deficiency determining deficiencies in tax of \$37,004 and \$269,286, and accuracy-related penalties of \$7,401 and \$53,857, for 2014 and 2015, respectively. The deficiencies arose chiefly from petitioners' failure to report capital gain income and the disallowance of passive activity losses from their rental real estate activity. The case was set for trial on the Court's December 16, 2019, Los Angeles, California, trial session. On December 11, 2019, the case was continued, and jurisdiction was retained by the undersigned.

On March 4, 2020, the parties filed a Joint Stipulation of Settled Issues that resolved all issues in this case. The stipulation reflected major concessions by both parties: Respondent conceded more than half of the deficiencies, and petitioners

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agreed that they were liable for the balance of the deficiencies and “for accuracy-related penalties pursuant to I.R.C. §6662(a) for the 2014 and 2015 taxable years.”

The Court directed the parties to submit decision documents with original signatures by April 23, 2020. On April 22, 2020, respondent filed a Motion for Entry of Decision. Respondent’s counsel represents that he obtained tax computations consistent with the parties’ settlement, prepared a decision document reflecting those computations, and presented the proposed stipulated decision to petitioners’ counsel for signature. Petitioners’ counsel then informed respondent that petitioners no longer wish to concede liability for the accuracy-related penalties.

On May 28, 2020, petitioners filed a response to respondent’s motion stating that they did “not wish to concede that they are liable for an accuracy-related penalty.” Contrary to the plain language of the stipulation that they signed, they assert that “there was no mention of a 20% penalty being added to the agreed upon numbers.”

“A controversy before this Court may be settled by agreement of the parties.” Dorchester Indus. Inc. v. Commissioner, 108 T.C. 320, 329 (1997), aff’d, 208 F.3d 205 (3d Cir. 2000). “A settlement is a contract and, consequently, general principles of contract law determine whether a settlement has been reached.” Id. at 330 (quoting Manko v. Commissioner, T.C. Memo. 1995-10, 69 T.C.M. (CCH) 1636, 1638); Robbins Tire & Rubber Co. v. Commissioner, 52 T.C. 420, 435-436 (1969), supplemented by 53 T.C. 275 (1969). “A prerequisite to the formation of a contract is an objective manifestation of mutual assent to its essential terms.” Dorchester Indus. Inc., 108 T.C. at 330 (quoting Manko, 69 T.C.M. (CCH) at 1638-1639); FPL Group, Inc. v. Commissioner, T.C. Memo. 2008-144, 95 T.C.M. (CCH) 1562, 1566-1567 (citing Dorchester Indus. Inc., 108 T.C. at 330).

In the Tax Court, concessions, compromises, and settlements can be memorialized in various ways, including (as here) by the parties’ execution of a stipulation of settled issues. “[A] settlement stipulation is in all essential characteristics a mutual contract by which each party grants to the other a concession of some rights as a consideration for those secured and the settlement stipulation is entitled to all of the sanctity of any other contract.” Saigh v. Commissioner, 26 T.C. 171, 177 (1956); Applestein v. Commissioner, T.C. Memo. 1989-42, 56 T.C.M. (CCH) 1169, 1170 (quoting Saigh, 26 T.C. at 177). The agreement manifested by a stipulation of settled issues will not be set aside except as necessary to prevent “mani-

fest injustice,” e.g., in the case of fraud or misrepresentation of material fact. See Rakosi v. Commissioner, T.C. Memo. 1991-630, 62 T.C.M. (CCH) 1563, 1565; Applestein, 56 T.C.M. (CCH) at 1170.

Here, the parties reached a meeting of the minds concerning resolution of the issues presented by this case. They filed on March 4, 2020, a stipulation of settled issues reflecting mutual concessions, including respondent’s concession of more than half of the deficiencies. Paragraph 5 of the stipulation of settled issues plainly states that “the parties stipulate and agree that petitioners are liable for accuracy-related penalties pursuant to I.R.C. § 6662(a) for the 2014 and 2015 taxable years.” That concession is utterly unambiguous.

Petitioners were represented by counsel at all times and cannot plausibly contend that they misunderstood their concession with respect to the penalties. They have set forth no facts suggesting fraud, material misrepresentation of facts, or other ground for setting aside the contract. There is reason why they should not be held to the terms of their bargain, as respondent is being held to the terms of his. We will accordingly grant respondent’s motion and enter decision consistent with his computations.

In consideration of the foregoing, it is

ORDERED that respondent’s Motion for Entry of Decision, filed April 22, 2020, is granted. It is further

ORDERED AND DECIDED that there are deficiencies in tax and penalties due from petitioners as follows:

<u>Year</u>	<u>Deficiency</u>	<u>Penalty</u> <u>I.R.C. §6662(a)</u>
2014	\$22,020.00	\$4,404.00
2015	\$125,547.00	\$25,109.40

(Signed) Albert G. Lauber
Judge

ENTERED: **JUN 03 2020**