



IT IS ORDERED as set forth below:

Date: December 17, 2020

**Paul W. Bonapfel
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)
)
P-D VALMIERA GLASS USA CORP.,) CHAPTER 11
)
) CASE NO. 19-59440-pwb
)

Debtor.)

**CONSENT ORDER REGARDING THE DEBTOR’S MOTION
FOR THE DETERMINATION OF TAX LIABILITY AND
ITS OBJECTION TO CLAIMS FILED BY THE IRS**

THIS MATTER came before the Court upon the Debtor’s Motion for the Determination of Tax Liability and Its Objection to Claims filed by the IRS (Doc. 440) (the “Debtor’s Motion”) filed by P-D Valmiera Glass USA Corp., the debtor and debtor-in-possession in the above-referenced Chapter 11 case (the “Debtor”), seeking entry of an order pursuant to Sections 502, 503, 505 and 507 of the United States Bankruptcy Code, 11 U.S.C., and Rule 3007 and 3012 of the Federal Rules of Bankruptcy Procedures, and the objection and response filed by the claimant, United States of America, by and through the Internal Revenue Service (“IRS”), (Doc. 505) (the “Claimant’s Response”). Based on a review of the record and the consent of the

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parties, as evidenced by the signatures of their respective counsel, below, it is hereby ORDERED, ADJUDGED and DECREED that:

1. The Debtor is not indebted to the United States for any additional corporate income taxes or interest for the tax year 2018, and therefore, the IRS claim for additional corporate income taxes, plus interest thereon, for 2018 shall be disallowed.

2. The Debtor is not indebted to the United States for additional federal withholding taxes on U.S. source income of foreign persons (the "Form 1042 withholding taxes"), penalties or interest for the tax year 2018, and therefore, the IRS claim for additional Form 1042 withholding taxes of \$198,981.34, penalties of \$4,200.71, and interest of \$3,304.03 for 2018 shall be disallowed.

3. The Debtor is not indebted to the United States for any additional excise taxes, penalties or interest for 2016, and therefore, the IRS claim for additional excise taxes, plus penalties and interest thereon, for 2016 shall be disallowed.

4. The Debtor is not indebted to the United States for any additional federal unemployment taxes or interest thereon for the tax year ended December 31, 2019, and therefore, the IRS claim for additional federal unemployment taxes, plus interest thereon, for 2019 shall be disallowed. The Debtor, however, is indebted to the United States for a penalty for failing to deposit federal unemployment taxes for 2019 timely (the "2019 federal tax deposit penalty"), and therefore, the IRS claim for the 2019 federal tax deposit penalty shall be allowed as an administrative expense claim under 11 U.S.C. § 503(b)(1)(C) and is entitled to priority under 11 U.S.C. § 507(a)(2) in the amount of \$2,229.26, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621.

5. The Debtor is not indebted to the United States for federal employment taxes or interest for the quarter ended June 30, 2014, and therefore, the IRS claim for federal employment taxes, plus interest thereon, for the tax period ended June 30, 2014, shall be disallowed.

6. The Debtor is indebted to the United States for federal employment taxes assessed against it for the tax quarter ended December 31, 2018, and therefore, the IRS claim for the assessed employment taxes for the tax period ended December 31, 2018, shall be allowed as an unsecured priority claim under 11 U.S.C. § 507(a)(8)(C), (D) in the amount of \$343,063.08, plus

statutory interest as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621.

7. The Debtor is not indebted to the United States for any additional federal employment taxes, penalties or interest for the quarter ended March 31, 2019, and therefore, the IRS claim for additional federal employment taxes, plus penalties and interest thereon, for the tax period ended March 31, 2019, shall be disallowed.

8. The Debtor is not indebted to the United States for any additional federal employment taxes or interest thereon for the quarter ended June 30, 2019, and therefore, the IRS claim for additional federal employment taxes, plus interest thereon, for the tax period ended June 30, 2019, shall be disallowed. The Debtor, however, is indebted to the United States for a penalty for failing to deposit federal employment taxes for the quarter ended June 30, 2019 timely (the “6/30/19 federal tax deposit penalty”), and therefore, the IRS claim for the 6/30/19 federal tax deposit penalty shall be allowed as an administrative expense claim under 11 U.S.C. § 503(b)(1)(C) and is entitled to priority under 11 U.S.C. § 507(a)(2) in the amount of \$16,302.40, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621.

9. The Debtor is not indebted to the United States for any additional federal employment taxes or interest thereon for the quarter ended September 30, 2019, and therefore, the IRS claim for additional federal employment taxes, plus interest thereon, for the tax period ended September 30, 2019, shall be disallowed. The Debtor, however, is indebted to the United States for a penalty for failing to deposit federal employment taxes for the quarter ended September 30, 2019 timely (the “9/30/19 federal tax deposit penalty”), and therefore, the IRS claim for the 9/30/19 federal tax deposit penalty shall be allowed as an administrative expense claim under 11 U.S.C. § 503(b)(1)(C) and is entitled to priority under 11 U.S.C. § 507(a)(2) in the amount of \$2,249.79, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621.

10. The Debtor is not indebted to the United States for any additional federal employment taxes or interest thereon for the quarter ended December 31, 2019, and therefore,

the IRS claim for additional federal employment taxes, plus interest thereon, for the tax period ended December 31, 2019, shall be disallowed

11. The Debtor has overpaid its corporate income tax (Form 1120) liability for the tax year 2017 in the amount of \$552,605.98 (the “2017 overpayment”). However, because of the Debtor’s outstanding tax liabilities identified in paragraphs 4, 6, 8 and 9, above, the IRS may offset the Debtor’s 2017 overpayment, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6611 and 6621, against its allowed claims, plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6601 and 6621. After the IRS offsets the Debtor’s 2017 overpayment of \$552,605.98 (excluding interest) against its allowed claims of \$363,844.53 (excluding interest), the Debtor is entitled to a refund of approximately \$188,761.45 (excluding interest), plus statutory interest thereon as is required by law and determined pursuant to 11 U.S.C. § 511 and 26 U.S.C. §§ 6611 and 6621.¹

12. Within 20 days from entry of this Order, the IRS shall file an amended proof of claim and a request for the payment of administrative expense claims that are consistent with this Order. To the extent, however, that the IRS’s amended proof of claim and/or request for the payment of administrative expense claims are inconsistent with this Order, this Order shall govern.

13. Within 120 days from entry of this Order, the IRS shall mail a refund check payable to “P-D Valmiera Glass USA Corp.” in the amount determined under the method of calculation set forth in paragraph 11, above, via overnight mail, to the Debtor’s

¹ The exact amount of the refund payable to the Debtor cannot be determined until the IRS computes the complex interest calculations that are required to be performed manually on account of the setoff of the Debtor’s 2017 overpayment against the IRS’s allowed claims. The IRS estimates that it will take between 90 to 120 days for it to perform the interest computations and issue a refund check to the Debtor.

counsel at the following address:

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14. The Debtor's Motion and the Claimant's Response are resolved in accordance with this Order.

15. Each party shall bear their own costs, including any attorneys' fees.

16. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, enforcement, construction, administration and interpretation of this Order.

END OF DOCUMENT

Prepared and Consented to by:

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