

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

MANUEL DIEGO SANTOS,
UNDER AND USING THE
BUSINESS STYLE OF TOP
GRADE METALCRAFT
INDUSTRIES,

Petitioner,

- versus -

CTA CASE NO. 10370

Members:

UY, Chairperson,
BACORRO-VILLENA, and
CUI-DAVID, JJ.

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated: OCT 05 2022

x ----- x
✓ 4:22 p.m.

RESOLUTION

For the Court's resolution is petitioner's "Formal Withdrawal of Petition" filed on 07 September 2022. There, petitioner prays that its Petition for Review filed on 08 October 2020 be withdrawn while its offer of compromise is pending approval before the National Evaluation Board (**NEB**) (despite several extensions afforded by the Court to submit the same).

The records show that, in a Resolution dated 05 August 2022, the Court gave the parties a non-extendible period of thirty (30) days within which to submit the requirements for the approval of their Judicial Compromise Agreement (**JCA**) to wit:

...
Petitioner's Compliance and Manifestation filed on 11 July 2022 is **NOTED**.

Accordingly, the parties are given a **FINAL NON-EXTENDIBLE PERIOD** of thirty (30) days within which to **SUBMIT** a copy of their duly signed compromise agreement and/or

Certificate of Availment from the National Evaluation Board. Otherwise, the Court may be constrained to resume proceedings in the case at bar, without prejudice to a subsequent submission by the parties of the said compromise agreement and/or Certificate of Availment.

SO ORDERED.

...

Section 2, Rule 17 of the Revised Rules of Court, as amended provides:

...

RULE 17
Dismissal of Actions

...

Sec. 2. Dismissal upon motion of plaintiff. — Except as provided in the preceding section, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him or her of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the right of the defendant to prosecute his or her counterclaim in a separate action unless within fifteen (15) calendar days from notice of the motion he or she manifests his or her preference to have his or her counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court.

...

Considering that petitioner has already paid a compromise amount equal to 40% of its basic tax deficiency amounting to Six Million Three Hundred Fifty-One Thousand Six Hundred Seventy-Nine Pesos (P6,351,679.00) and the fact of such payment has already been acknowledged in this Court's Resolution dated 10 March 2022, the Court sees no reason to continuously postpone these proceedings while petitioner awaits the NEB approval over which it has no control.

WHEREFORE, considering the foregoing, petitioner's Formal Withdrawal of Petition filed on 07 September 2022 is **GRANTED**. Accordingly, petitioner's Petition for Review filed on 08 October 2020 is **WITHDRAWN** and the case is hereby **DISMISSED**.

SO ORDERED.

(On Leave)
ERLINDA P. UY
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


LANEE S. CUI-DAVID
Associate Justice