REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

CLARK DEVELOPMENT CORPORATION,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE ROMEO D. LUMAGUI, JR.
Respondent.

CTA Case No. 11351

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

DEC 19 2024
3:52 p.m.

x - x

RESOLUTION

For the Court's resolution is petitioner's ***Motion to Withdraw Petition for Review*** filed on August 14, 2024 (Motion), with respondent's *Comment (Re: Motion to Withdraw Petition for Review dated 09 August 2024)* filed on August 27, 2024.

In its *Motion*, petitioner manifested that, the Clark Development Corporation (CDC) Board of Directors resolved to approve the payment of the tax assessment subject of the instant case. According to the petitioner, it is no longer interested in the further prosecution of the case.

In his *Comment*, the CIR interposes no objection to the *Motion* and submits the resolution thereof to the sound discretion of the Court.

The Court resolves to grant the *Motion* filed by petitioner.

The Revised Rules of the Court of Tax Appeals (RRCTA) does not provide for the procedure regarding withdrawal of appeals pending before the CTA. Thus, pursuant to Section 3, Rule 1 of the RRCTA, the Rules of Court shall apply suppletorily.

Section 3, Rule 50 of the Revised Rules of Court states that:

RULE 50
DISMISSAL OF APPEAL
xxx

> Section 3. Withdrawal of Appeal. - An appeal may be withdrawn as of right at any time before the filing of the appellee's brief. Thereafter, **the withdrawal may be allowed in the discretion of the court.**

Based on the foregoing, an appeal from the decision, or inaction by the CIR may either be withdrawn as a matter of right or subject to the discretion of the court. If the withdrawal is requested before the filing of the appellee's brief, the appeal may be withdrawn as a matter of right; otherwise, a prayer to withdraw an appeal after the filing of the appellee's brief may only be allowed as a matter of discretion of the court.

Here, the respondent has already filed his *Answer* to the *Petition for Review* on April 12, 2024. Thus, the resolution of the instant *Motion* shall be based on the Court's discretion.

Considering respondent's non-objection to the *Motion* and the payment made by the petitioner on the assessed deficiency tax against it, the Court allows the withdrawal of the *Petition for Review.*

WHEREFORE, premises considered, petitioner's ***Motion to Withdraw Petition for Review*** filed on August 14, 2024, is **GRANTED**.

Accordingly, let the *Petition for Review* posted by the petitioner on December 06, 2023, be considered **WITHDRAWN,** and this case deemed **CLOSED** and **TERMINATED.**

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice