REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

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TELOWORKS PHILIPPINES INCORPORATED,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10178

Members:

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

Promulgated:

AUG 05 2022 10:57 AM

x - x

RESOLUTION

For resolution is petitioner's ***Motion to Withdraw Petition (With Motion to Cancel Hearings)*** filed on December 14, 2021.

In its *Motion*, petitioner avers, among others, that after a thorough evaluation and analysis of the current status of the instant case and other related circumstances, petitioner is no longer interested in pursuing it and has decided to ask for the Court's approval for its dismissal. Thus, petitioner prays for the following: a) the dismissal of the Petition for Review, and the closure and termination of the instant case; b) The cancellation of the forthcoming Commissioner's Hearings and presentation of evidence for the instant case; and other reliefs just and equitable under the circumstances.

In the Resolution dated December 17, 2021, the Court ordered respondent to file his comment on petitioner's Motion to Withdraw Petition (with Motion to Cancel Hearings).

On July 20, 2022, the Court received ***Records Verification Report*** issued by Records Officer III Jasmin L. Mejia, Clerk IV, Angelica V. Magpantay and noted by Supervising Judicial Staff Officer Florisa L. Tagalog, stating that respondent failed to file comment on petitioner's Motion to Withdraw Petition (with Motion to Cancel Hearings) despite receipt of the Resolution dated December 17, 2021. The same is hereby **NOTED**.

We resolve.

Under Section 3, Rule 1 of the Revised Rules of the Court of Tax Appeals (RRCTA), the Rules of Court shall apply suppletorily to the RRCTA. Moreover, in Section 1, Rule 7 of the RRCTA, the procedures in the Court *En Banc* or in Division in original and in appealed cases shall be the same as those in petitions for review and appeals before the Court of Appeals.

In this regard, Section 3, Rule 50 of the 1997 Rules of Civil Procedure[1] provides for the procedure for the withdrawal of appeals as follows:

> "RULE 50
> **DISMISSAL OF APPEAL**
>
> x x x x
>
> **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 *Withdrawal of appeal.*** – An appeal may be withdrawn as of right at any time before the filing of the appellee's brief.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, the granting of a Motion to Withdraw Appeal at this stage is addressed to the sound discretion of the Court. Since the instant case has not yet been submitted for decision and considering that respondent failed to file his comment on petitioner's *Motion to Withdraw Petition* within the given period, the Court is inclined to grant petitioner's Motion to Withdraw.

As regards petitioner's *Motion to Cancel Hearings*, considering that the scheduled hearings were cancelled in the Resolution dated December 17, 2021, the resolution thereof now becomes unnecessary and therefore moot.

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[1] Amended by A.M. No. 19-10-20-SC or the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure, effective May 1, 2020.

WHEREFORE, in light of the foregoing considerations, petitioner's ***Motion to Withdraw*** is hereby **GRANTED**.

Accordingly, the *Petition for Review* is **DISMISSED,** and this case is hereby **CLOSED** and **TERMINATED**.

Further, petitioner's *Motion to Cancel Hearings* is **NOTED** for being moot.

SO ORDERED.

ERLINDA P. UY
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice