REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

ACE PACKAGING CO. (PHIL), INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11022

Members:

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

Promulgated:

SEP 2 6 2024
11:14 a.m.

x - x

RESOLUTION

For the Court's resolution is petitioner's ***Manifestation with Motion to Withdraw Petition for Certiorari*** filed on April 23, 2024 (the Motion), with respondent's *Comment/Manifestation (Re: Manifestation with Motion to Withdraw Petition for Certiorari dated 16 April 2024)* filed on June 4, 2024.

In its *Motion*, petitioner manifests that, in view of a compromise that it has entered with respondent, petitioner will be unable to comply with the *Resolution* dated March 15, 2024 directing it to post a bond relative to the grant of a suspension order for the collection of taxes. According to the petitioner, said compromise is not in any way an admission of the validity of the assessment. Nevertheless, the petitioner alleges that the compromise has rendered its Petition moot and academic, hence, the instant *Motion*. For the reasons cited, the petitioner thus prays that its Petition be considered withdrawn, and the *Resolution* dated March 15, 2024 be deemed vacated for having been mooted.

The CIR, based on his *Comment,* interposes no objection to the *Motion*, and manifests that while the petitioner has the right to file the Petition, it also has the prerogative to withdraw the same. Additionally, the CIR maintains its position that the assessment is valid. Finally, the CIR confirms the manifestation of the petitioner that there was already a compromise entered into with the petitioner pursuant to Section 204 of the Tax Code.

We grant petitioner's *Motion*.

To begin with, the Court notes that based on the Records Verification Report dated June 27, 2024, the petitioner failed to clarify the petition subject of its *Motion*. In the *Motion*, it was observed that the title of the pleading indicates a certain Petition for Certiorari. However, records reveal that no Petition for Certiorari was filed before the Court, and that the only petition included in the records of the instant case is the *Verified Petition for Review (With Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction)* posted by the petitioner on October 28, 2022. Thus, the Court shall consider such *Verified Petition* for purposes of resolving petitioner's instant *Motion*.

It should be emphasized that the Revised Rules of the Court of Tax Appeals (RRCTA) does not provide for the procedure regarding withdrawal of appeals pending before the CTA. Hence, pursuant to Section 3, Rule 1 of the RRCTA, the Supreme Court's Rules of Court shall suppletorily apply, thus:

> RULE 1
> TITLE AND CONSTRUCTION
>
> xxx
>
> Section 3. *Applicability of the Rules of Court*. – The Rules of Court in the Philippines shall apply suppletorily to these Rules.

Relative thereto, Section 1, Rule 7 of the RRCTA provides that the procedure in the CTA shall be the same as that in the Court of Appeals, thus:

> RULE 7
> PROCEDURE IN THE COURT OF TAX APPEALS
>
> Section 1. *Applicability of the Rules of Court on procedure in the Court of Appeals, exception*. – The procedure 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 pursuant to the applicable provisions of Rules 42, 43, 44 and 46 of the Rules of Court, except as otherwise provided for in these Rules.

As regards withdrawal of appeal, 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**.

From the foregoing, an appeal may either be withdrawn as a matter of right or subject to the discretion of the court, depending on the time of filing thereof. If the withdrawal is requested before the filing of the appellee's brief, the appeal may be withdrawn as 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.

In this case, the respondent has already filed his *Answer* to the *Verified Petition* on February 6, 2023. Thus, the resolution of the *Motion* shall be based on the Court's discretion.

Taking into consideration respondent's non-objection to the *Motion*, and confirmation that both parties have already entered into a compromise, the Court allows the withdrawal of the *Verified Petition*.

Finally, the Court clarifies that such grant of withdrawal does not in any way confirm or determine the validity of petitioner's alleged deficiency Value-added Tax assessment in the amount of ₱7,190,548.12 covering the first semester of 2019.

WHEREFORE, premises considered, petitioner's ***Manifestation with Motion to Withdraw Petition for Certiorari*** filed on April 23, 2024, is **GRANTED**.

Accordingly, let the *Verified Petition for Review (With Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction)* posted by the petitioner on October 28, 2022, 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