REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

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LAFARGE HOLCIM AGGREGATES, INC. Petitioner, **- versus -** **COMMISSIONER OF INTERNAL REVENUE,** Respondent.	**CTA Case No. 10443** ***Members:*** **UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** <u>*JJ.*</u> ***Promulgated:*** MAR 03 2021 3:28 p.m.

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RESOLUTION

For resolution are:

1) petitioner's ***MANIFESTATION AND MOTION [To Withdraw Petition for Review]***[1] filed on February 19, 2021; and

2) respondent's ***MOTION FOR EXTENSION OF TIME TO FILE ANSWER***[2]**,** also filed on February 19, 2021.

In petitioner's ***Manifestation and Motion [To Withdraw Petition for Review]***, it alleges that it filed an application for compromise settlement of the subject deficiency tax assessments in this case pursuant to Section 204 of the National Internal Revenue Code of 1997 in relation to Revenue Regulations No. 30-2002 on the ground of doubtful validity and arbitrariness of the assessment; that the said application for compromise was favorably acted upon by the CIR who issued the *Certificate of Availment (Compromise Settlement)* dated February 5, 2021, attesting to the National Evaluation Board's approval of petitioner's offer of compromise settlement; and that it is

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[1] Docket, pp. 330 to 332.
[2] Docket, pp. 335 to 338.

no longer pursuing the instant *Petition for Review* before this Court. Thus, petitioner moves for the withdrawal of the instant *Petition for Review*. Petitoner's *Manifestation* is hereby **NOTED**.

As regards respondent's *Motion for Extension of Time to File Answer*, respondent prays for an extension of thirty (30) days from February 21, 2021 or until March 23, 2021, to file his Answer.

We resolve the motions.

Pursuant to the Revised Rules of the Court of Tax Appeals (RRCTA), the Rules of Court shall suppletorily apply to the RRCTA[3] and 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.[4]

In this regard, Section 3, Rule 50 of the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure provides as follows:

> "SEC. 3. *Withdrawal of appeal.* – **<u>An appeal may be withdrawn as of right at any time before the filing of the appellee's brief</u>**. Thereafter, the withdrawal may be allowed in the discretion of the court."

Based on the foregoing, an appeal may be withdrawn as a matter of right, at any time before the filing of the appellee's brief.

In the instant case, considering that no *Answer* has yet been filed by respondent, the withdrawal of the instant *Petition for Review* is clearly a matter of right of petitioner. Accordingly, the Court resolves to grant the withdrawal of the instant *Petition*.

As regards respondent's *Motion for Extension of Time to File Answer*, considering the withdrawal of the instant Petition, the resolution thereof now becomes unnecessary and therefore moot.

WHEREFORE, in light of the foregoing considerations, petitioner's *Motion to Withdraw Petition for Review* is hereby **GRANTED**. Accordingly, the instant *Petition for Review* is

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[3] Section 3, Rule 1 of the RRCTA.
[4] Section 1, Rule 7 of the RRCTA.

DISMISSED, and this case is now deemed **CLOSED** and **TERMINATED**.

Further, respondent's *Motion for Extension of Time to File Answer* is **NOTED** for being moot.

SO ORDERED.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice