

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

**MISAMIS ORIENTAL II RURAL
ELECTRIC SERVICE
COOPERATIVE, INC.
(MORESCO II),**

Petitioner,

CTA CASE NO. 10145

Members:

CASTAÑEDA, JR., Chairperson,
MINDARO-GRULLA, and
BACORRO-VILLENA, JJ.

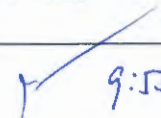
- versus -

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

Promulgated:

MAR 12 2020

 9:11 a.m.

X- - - - -X

RESOLUTION

Before this Court is the **Back to Court** report from the Philippine Mediation Center Unit (PMCU), received on February 6, 2020.

After being required to appear at the PMCU of this Court on November 26, 2019 for mediation proceedings, the PMCU returned the case to Court on February 6, 2020 for failure of petitioner to attend despite having received the Second Notice to Appear dated January 8, 2020.

Paragraph XI of A.M. No. 11-1-5-SC-PHILJA (Re: Interim Guidelines for Implementing Mediation in the Court of Tax Appeals) pertinently provides:

"XI. SANCTIONS

XXX

XXX

XXX

In case of failure of the parties to appear during mediation proceedings, the same effect and sanctions may be had as if the parties failed to appear during pre-trial, pursuant to Section 5, Rule 18 of the Revised Rules of Court and Section 5, Rule 11 of the Revised Rule of the Court of Tax Appeals."

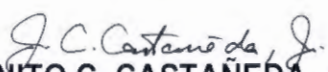
In connection thereto, Section 5, Rule 18 of the Revised Rules of Court provides:

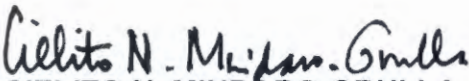
"Section 5. *Effect of failure to appear.* — The failure of the plaintiff to appear when so required pursuant to the next preceding section **shall be cause for dismissal of the action.** The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex parte* and the court to render judgment on the basis thereof." (*Emphasis supplied*)

As mentioned earlier, petitioner's representative failed to appear in the scheduled mediation proceedings, *first* on November 26, 2019 and *second* on January 8, 2020. Considering petitioner's repeated failure to appear during the mediation proceedings, the Court is constrained to dismiss the case pursuant to the above-quoted rules.

WHEREFORE, the instant Petition is **DISMISSED WITHOUT PREJUDICE**, for failure of petitioner to attend the scheduled mediation proceedings pursuant to Paragraph XI of A.M. No. 11-1-5-SC-PHILJA (Re: Interim Guidelines for Implementing Mediation in the Court of Tax Appeals), in relation to Section 5, Rule 18 of the Revised Rules of Court.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


CIELITO N. MINDARO-GRULLA
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice