REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

ROLANDO C. RANTE,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9237

Members:

DEL ROSARIO, P.J., *Chairperson*
UY, and
MINDARO-GRULLA, *JJ.*

Promulgated:
DEC 06 2017 11:05 am

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RESOLUTION

MINDARO-GRULLA, J.:

In a Resolution dated October 30, 2017, respondent Commissioner of Internal Revenue (CIR) was directed to show cause why he should not be held in contempt for failure to file his comment to petitioner's Motion with Leave of Court to Withdraw Petition.

In compliance with the Court's resolution, respondent CIR filed his comment on November 17, 2017. The comment explained that the respondent's lawyer has been indisposed for the past three months due to a serious ailment. Relative thereto, respondent also interposed no objection to petitioner's intention to withdraw the petition. Hence, we resolve.

Petitioner prays that this Court approve the Motion with Leave of Court to Withdraw Petition on the ground that a compromise agreement has been entered into between him and respondent CIR. To support the Motion, he attached thereto photocopies of the following:

1. Application for Compromise Settlement for petitioner's Income Tax and Value Added Tax;
2. The corresponding BIR Payment forms showing approval of respondent;
3. Official Receipts; and
4. Letter of request for acceptance of Offer to Compromise Payment.

The Court resolves to GRANT petitioner's Motion with Leave of Court to Withdraw Petition.

In the recent case of *Commissioner of Internal Revenue vs. Nippon Express (Phils.) Corporation*[1], the Supreme Court elucidated on the procedure for the withdrawal of pending appeals before the Court of Tax Appeals. The Supreme Court ruled in this wise:

> "A perusal of the Revised Rules of the Court of Tax Appeals (RRCTA) reveals the lack of provisions governing the procedure for the withdrawal of pending appeals before the CTA. Hence, pursuant to Section 3, Rule 1 of the RRCTA, the Rules of Court shall suppletorily apply:
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> > SEC. 3. Applicability of the Rules of Court. - The Rules of Court in the Philippines shall apply suppletorily to these Rules.
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> Rule 50 of the Rules of Court (now the 1997 Rules of Civil Procedure) - an adjunct rule to the appellate procedure in the CA under Rules 42, 43, 44, and 46 of the Rules of Court which are equally adopted in the RRCTA states that when the case is deemed submitted for resolution, withdrawal of appeals made after the filing of the appellee's brief may still be allowed in the discretion of the court:
>
> **RULE 50**
>
> **DISMISSAL OF APPEAL**

[1] Commissioner of Internal Revenue vs. Nippon Express (Phils.) Corporation, G.R. No. 212920, September 16, 2015.

C.

xxx xxx 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***."

Notably, in the case of *Central Luzon Drug Corporation vs. Commissioner of Internal Revenue*[2], the Supreme Court explained the consequence of the withdrawal of an appeal. It held that when an appeal is withdrawn, the assailed decision becomes final and executory.

Under the premises, petitioner's Motion at this stage is addressed to the sound discretion of the Court. Considering that the Petition for Review has not yet been submitted for decision and that respondent CIR does not interpose any objection to the Motion, the Court resolves to grant petitioner's Motion.

Petitioner is reminded of the effect of the withdrawal of his appeal that by withdrawing the instant Petition for Review, the decision of respondent CIR on the disputed assessment under Assessment Notice/Final Letter of Demand No. 41-B004-10 dated March 16, 2015 now becomes final and executory.

WHEREFORE, premises considered, the Comment filed on November 17, 2017 by respondent CIR is hereby **NOTED**. Petitioner's "Motion with Leave of Court to Withdraw Petition" filed on July 25, 2017 is hereby **GRANTED.**

Accordingly, the Petition for Review filed on January 13, 2016 docketed as CTA Case No. 9237 is deemed **WITHDRAWN**, and the case is hereby declared **CLOSED and TERMINATED**. Assessment Notice/Final Letter of Demand No. 41-B004-10 dated March 16, 2015 is **DECLARED** final and executory. No further pleadings or motions shall be entertained hereafter.

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[2] Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, G.R. No. 181371, March 2, 2011.

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SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice