REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION
****

TIGER RESORT LEISURE AND ENTERTAINMENT, INC., Petitioner,	**CTA Case No. 10361**
	Members:
- versus -	
	UY, *Chairperson,* **BACORRO-VILLENA,** and **CUI-DAVID,** JJ.
COMMISSIONER OF INTERNAL REVENUE and COMMISSIONER OF CUSTOMS, Respondents.	***Promulgated:*** SEP 02 2022 3:03 pm

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RESOLUTION

For resolution are the following:

(1) Respondent's Commissioner of Customs (COC) ***Motion for Reconsideration (Re: Honorable Court's Resolution dated 30 March 2022)*** filed on April 13, 2022; and

(2) Petitioner's ***Motion to Withdraw Petition*** filed on June 2, 2022.

In the Resolution dated April 21, 2022, the Court ordered petitioner to file its comment on respondent COC's Motion for Reconsideration within five (5) days from notice.

On the other hand, in the Resolution dated June 7, 2022, the Court ordered respondents to file their Comment on petitioner's Motion to Withdraw Petition within five (5) days from notice.

Thereafter, a ***Records Verification*** dated August 18, 2022 was issued by Records Officers Leocadia D. Victoria and Jasmin L. Mejia, noted by Supervising Judicial Staff Officer Florisa L. Tagalog of the Judicial Records Division of this Court, stating that as of date, and per records of this Court, counsel for petitioner failed to file a comment on respondent COC's Motion for Reconsideration of the Resolution dated March 30, 2022; and that respondents failed to file their comment on petitioner's Motion to Withdraw Petition. The ***Records Verification*** is hereby **NOTED**.

In his *Motion for Reconsideration*, respondent COC avers that the Court erred in ruling that the COC is a necessary party in the instant case; that a necessary party, like an indispensable party, should be a real party-in-interest to be a party in a case; and that in this case, the COC is not a real party-in-interest. Hence, respondent COC prays that the Resolution dated March 30, 2022 be reconsidered and set aside, and that a new one be entered ordering the removal of respondent COC as a co-respondent in this case.

On the other hand, petitioner in its *Motion to Withdraw Petition*, avers that it has decided to withdraw its Petition to focus its energies and resources on its operations in order that it may contribute to the nation's economic recovery as tourism in the Philippines begins to improve from the effects of the global pandemic. Thus, petitioner moves for the approval of the withdrawal of the instant Petition for Review, terminate the proceedings, and cancel all future hearings and proceedings in the instant case.

We resolve.

The Court shall first address petitioner's *Motion To Withdraw Petition*.

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

[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.

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."

Based on the foregoing, the withdrawal of an appeal at this stage is addressed to the sound discretion of the Court.

Notably, the instant case has not yet been submitted for decision. Considering that respondents failed to file their respective comment on petitioner's *Motion to Withdraw Petition* within the given period, the Court is inclined to grant petitioner's Motion to Withdraw.

Anent petitioner's prayer to *cancel all future hearings and proceedings*, it bears noting that all the hearings dates were cancelled in the Resolution dated June 7, 2022.

As regards respondent COC's Motion for Reconsideration, considering the favorable consideration of petitioner's Motion to Withdraw Petition, the resolution thereof now becomes unnecessary and moot.

WHEREFORE, in light of the foregoing considerations, petitioner's ***Motion to Withdraw Petition*** is hereby **GRANTED**. Accordingly, the instant *Petition for Review* is **DISMISSED.** This case is hereby considered **CLOSED** and **TERMINATED**.

Further, respondent COC's *Motion for Reconsideration* is considered **MOOT**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice