REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

GEBO CERMEX PHILIPPINES, INC. (FORMERLY SIDEL SALES & CONVEYOR INDUSTRIES PHILS., INC.), *Petitioner,*	**CTA CASE NO. 10125**
	Members: **UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: MAR 11 2020 11:16 a.m.

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RESOLUTION

For this Court's resolution is petitioner's "Motion to Cause Dismissal and Withdrawal of the Petition for Review dated 19 July 2019," filed on 24 January 2020, praying that the Court issue an order allowing petitioner to withdraw the instant Petition for Review, filed on 19 July 2019, and dismissing the same.

Petitioner wishes to withdraw the instant Petition because it "determined that the time, effort and costs that will be necessary to pursue its claim far outweighs the ultimate result of prosecuting its Petition."[1] Petitioner also contends that the withdrawal of the instant Petition will not prejudice respondent.[2]

Respondent, meanwhile, failed to file any Comment to petitioner's Motion within the period granted him.[3]

The Supreme Court has elucidated on the procedure for the withdrawal of pending appeals before this Court in ***Commissioner of Internal Revenue vs. Nippon Express (Phils.) Corporation***[4], where it held that:

> "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

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[1] *Rollo*, p. 125.
[2] Ibid.
[3] *Rollo*, no page number.
[4] G.R. No. 212920, 16 September 2015.

to Section 3, Rule 1 of the RRCTA, the Rules of Court shall suppletorily apply:

> **SEC. 3.** ***Applicability of the Rules of Court.*** — The Rules of Court in the Philippines shall apply suppletorily to these Rules.

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**
>
> 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 **Section 3.** ***Withdrawal of appeal.*** — An appeal may be withdrawn as of right at any time before the filing of the appellee's brief.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."

Petitioner's Motion at this stage is thus addressed to the sound discretion of this Court. Considering that the instant Petition has not yet been submitted for decision and that respondent failed to interpose any objection to the instant Motion, the Court resolves to grant the same.

It should be further noted that in ***Central Luzon Drug Corporation vs. Commissioner of Internal Revenue***,[5] the Supreme Court held that the withdrawal of an appeal results in the assailed decision becoming final and executory. Therefore, by withdrawing the instant Petition for Review, respondent's Denial Letter dated 18 February 2019 becomes final and executory.

WHEREFORE, petitioner's "Motion to Cause the Dismissal and Withdrawal of the Petition for Review dated 19 July 2019" is hereby **GRANTED**. The instant Petition for Review, filed 19 July 2019, is hereby **DISMISSED**, and the case is considered **CLOSED** and **TERMINATED**. Respondent's Denial Letter dated 18 February 2019 is accordingly **DECLARED** final and executory. No further pleadings or motions shall be entertained herein.

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[5] G.R. No. 181371, 2 March 2011.

SO ORDERED.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice