REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

KABALIKAT PARA SA MAUNLAD NA BUHAY, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1839
(CTA CASE NO. 9003)

Present:

DEL ROSARIO, PJ,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, JJ.

Promulgated:

SEP 25 2018 3:37 p.m.

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RESOLUTION

For this Court's resolution are petitioner's **Motion to Withdraw Petition** filed on June 27, 2018, without respondent's comment despite notice as per Records Verification dated August 15, 2018; and, petitioner's **Motion to Resolve** filed on September 18, 2018.

In its Motion to Withdraw Petition, petitioner prays for the immediate dismissal of the case with prejudice. In support thereof, petitioner avers that:

(i) After a series of talks with the authorized representatives of respondent, petitioner made an offer of compromise settlement in accordance with Section 204 of the National Internal Revenue Code (NIRC) of 1997 and Revenue Memorandum Order (RMO) No. 30-2002;

(ii) As part of the process, petitioner will withdraw all pending cases on appeal before the courts and with respondent;

(iii) The offer of compromise settlement and the withdrawal of the instant petition have been approved by the Board of Trustees of petitioner, as evidenced by the copy of Secretary's Certificate which is attached to the present motion.

In its Motion to Resolve, petitioner reiterates its prayer for the withdrawal of its Petition for Review and the immediate dismissal of the present case.

Under the Revised Rules of the Court of Tax Appeals (RRCTA), the Rules of Court applies suppletorily to the RRCTA 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 or appeals before the Court of Appeals. ***Commissioner of Internal Revenue vs. Nippon Express (Phils.) Corporation***[1] elucidates the procedure for the withdrawal of pending appeals before the Court of Tax Appeals (CTA) in this manner:

> "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.
>
> 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**
> >
> > **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."

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[1] G.R. No. 212920, September 16, 2015.

In the case at bar, considering that the Petition for Review has not yet been submitted for decision and that respondent does not interpose any objection to petitioner's Motion to Withdraw Petition, the Court finds no basis to deny the same.

It is settled, however, that when an appeal is withdrawn, the assailed decision becomes final and executory.[2] Thus, as a consequence of petitioner's withdrawal of the subject Petition for Review, the Amended Decision of the Court in Division dated April 3, 2018 in CTA Case No. 9003, which orders petitioner to pay deficiency value added tax in the total amount of ₱35,304,951.70, inclusive of 25% surcharge, plus deficiency and delinquency interests, has become final and executory.

WHEREFORE, premises considered, petitioner's Motion to Withdraw Petition filed on June 27, 2018 and petitioner's Motion to Resolve filed on September 18, 2018 are hereby **GRANTED**. Accordingly, the Petition for Review dated April 17, 2018, which was filed on April 19, 2018, is hereby **WITHDRAWN.** The present case is **DISMISSED** with prejudice and considered **CLOSED** and **TERMINATED**. The Amended Decision of the Court in Division dated April 3, 2018 in CTA Case No. 9003 is **DECLARED FINAL AND EXECUTORY**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Leave)
ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Leave)
CIELITO N. MINDARO-GRULLA
Associate Justice

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice