REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

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EFCO PHILIPPINES LTD.,
Petitioner,

- **versus** -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10597

Members:

UY, *Chairperson*,
BACORRO-VILLENA, and
CUI-DAVID, JJ.

Promulgated:

SEP 2 3 2022
1:30 p.m.

x - x

RESOLUTION

For resolution is petitioner's *Manifestation and Omnibus Motion to Withdraw Petition and Cancel/Defer Pre-Trial Conference and Suspend Posting of Cash or Surety Bond* filed on July 20, 2022, with respondent's *Comment (to Petitioner's Manifestation and Omnibus Motion to Withdraw Petition and Cancel/Defer Pre-Trial Conference and Suspend Posting of Cash or Surety Bond)* filed on August 1, 2022 through registered mail.[1]

In its *Manifestation and Omnibus Motion*, petitioner prays that: (1) its *Motion to Withdraw* the instant *Petition for Review* dated July 23, 2021 be granted; (2) the Pre-Trial Conference scheduled on July 25, 2022 at 1:30 p.m. be cancelled and the same be deferred until the resolution of the *Omnibus Motion*; and (3) the requirement for the posting of a cash bond or surety bond be suspended until the resolution of the *Omnibus Motion*.

Petitioner avers that on June 28, 2022, its counsel received a letter dated June 27, 2022 from the Office of the Chief, Legal Division of Revenue Region No. 8B – South NCR, informing its counsel that the Bureau of Internal Revenue (BIR) recognized that petitioner filed

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[1] Respondent's *Comment* was received by the Court on August 10, 2022.

a valid Protest with the office of the Regional Director via registered mail on October 1, 2020, and that the BIR has approved petitioner's request that the Protest be given due course; thus, allowing a reinvestigation. Considering that respondent, through her authorized representative, gave due course to petitioner's Protest for being timely filed in the proper venue, and thereby negating the Warrant of Distraint and/or Levy (WDL) No. RR8B-21-03-01-00023, it appears that the instant *Petition for Review* has now become premature.

Meanwhile, on August 1, 2022, respondent filed her *Comment*, stating that she is not interposing any objection to the *Manifestation and Omnibus Motion* filed by petitioner. Respondent prays that the instant *Petition for Review* be dismissed.

We resolve.

In the case of *Commissioner of Internal Revenue v. Nippon Express (Phils.) Corp.*,[2] the Supreme Court elucidated on the procedure for the withdrawal of appeals pending before the Court of Tax Appeals, to wit:

> "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 — 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

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

> 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**. (Emphasis supplied)"

Based on the foregoing, the granting of a Motion to Withdraw Appeal at this stage is addressed to the sound discretion of the Court. Considering that the trial in the instant case has yet to commence, and that respondent does not interpose any objection to the *Manifestation and Omnibus Motion*, the Court is inclined to grant petitioner's *Manifestation and Omnibus Motion*.

WHEREFORE, in light of the foregoing considerations, petitioner's *Manifestation and Omnibus Motion to Withdraw Petition and Cancel/Defer Pre-Trial Conference and Suspend Posting of Cash or Surety Bond* is hereby **GRANTED**. Accordingly, the instant *Petition for Review* filed on July 27, 2021 is hereby **DISMISSED**, and this case is considered **CLOSED** and **TERMINATED**.

Further, in view of the dismissal of the instant case, petitioner's motion for the cancellation of the Pre-Trial Conference scheduled on July 25, 2022 and deferral of the same until the resolution of its *Omnibus Motion*, and the suspension of the requirement for the posting of a cash bond or surety bond until the resolution of the *Omnibus Motion*, are rendered **MOOT**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice