REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

GLOBAL CATERING SERVICES CORPORATION, Petitioner,	**CTA CASE NO. 10645**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** and **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 31 2023 8:46 a.m.

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RESOLUTION

Before this Court is petitioner's **Motion to Withdraw Petition for Review**, filed on July 4, 2023, praying that the Court allow the withdrawal of the Petition for Review and cancel the scheduled hearing for the reception of testimony of the Independent Certified Public Accountant (ICPA) in relation to her report.

Records show that the *Petition for Review* was filed by petitioner on October 27, 2021.[1] Summons was issued on November 8, 2021 directing respondent to file his answer within thirty (30) days from receipt.[2]

On December 12, 2021, respondent filed a *Motion for Extension of Time to file Answer*[3] seeking an additional period of thirty (30) days from December 17, 2021, or until January 16, 2022, within which to file his answer. The Court granted the respondent's motion in the Order dated January 3, 2022.[4] Nevertheless, respondent belatedly filed his Answer on January 31, 2022 via registered mail.[5]

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[1] Docket, pp. 6-24.
[2] Docket, p. 208.
[3] Docket, p. 210.
[4] Docket, p. 214.
[5] Docket, pp. 215-224.

The case proceeded to Pre-Trial Conference on April 6, 2022[6] and was concluded on May 31, 2022.[7] Thereafter, the petitioner's presentation of evidence commenced; and, the ICPA Krista V. Bambao was commissioned on June 1, 2022.[8]

Pending the presentation of the ICPA and her report on September 28, 2022,[9] petitioner filed a *Motion with Leave of Court to File Amended Report (Of the Independent Certified Public Accountant) With Motion for Postponement (of Hearing Scheduled on 28 September 2022)* on August 20, 2022.[10] The Court granted both motions in the Resolution, dated January 19, 2023,[11] resulting to resetting of the presentation of the ICPA and her report to January 31, 2023.

On February 27, 2023, petitioner filed a *Motion for Extension of Time to File Amended Report (Of the Independent Certified Public Accountant)* seeking an additional period of thirty (30) days from receipt of a resolution within which to submit an amended report.[12] In the Resolution, dated March 28, 2023, the Court granted the motion.[13]

On May 17, 2023, the ICPA submitted her report[14] which was noted by the Court through the Minute Resolution, dated June 27, 2023.[15] The case was then set for the presentation of the ICPA report on August 17, 2023 at 9:00 a.m.

Meanwhile, on July 4, 2023, petitioner filed the instant *Motion to Withdraw Petition for Review* alleging that *"due to limited resources of the Petitioner to pursue the case, it has, through its management, ascertained to withdraw the instant case"*. Petitioner, likewise, prays for the cancellation of the hearing of the testimony of the ICPA relative to her report.

In the Resolution, dated July 17, 2023, respondent was given five (5) days within which to file his comment on petitioner's motion. The said resolution was served on respondent on July 21, 2023 through personal delivery. Records, however, show that respondent failed to file his comment within the period given as per Records Verification dated August 30, 2023.

The Court shall now resolve petitioner's motion.

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[6] Docket, pp. 234-235.
[7] Docket, pp. 421-425.
[8] Docket, pp. 426-428.
[9] Docket, p. 533.
[10] Docket, pp. 534-538.
[11] Docket, p. 541.
[12] Docket, pp. 555-559.
[13] Docket, pp. 561-562.
[14] Docket, p. 563.
[15] Docket.

Admittedly, the Revised Rules of the Court of Tax Appeals (RRCTA) is short of a provision governing the procedure for the withdrawal of a case pending appeal before it; hence, pursuant to Section 3, Rule 1 of the RRCTA, the Rules of Court shall suppletorily apply, *viz*:

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

Likewise, Rule 50 of the Rules of Court, while an adjunct rule to the appellate procedure in the Court of Appeals under Rules 42, 43, 44, and 46 of the Rules of Court, the same is equally adopted in the RRCTA.[16] Rule 50 of the Rules of Court states that withdrawal of an appeal made after the filing of the appellee's brief may be allowed in the discretion of the court, to quote: [17]

> RULE 50
> DISMISSAL OF APPEAL
>
> xxx xxx xxx
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> "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.

Finding the reason advanced by petitioner sufficient; and, in the absence of comment from the respondent, the Court is inclined to allow petitioner's *Motion to Withdraw Petition for Review.*

As the Supreme Court pronounced in the case of *Go vs. Cruz*,[18] *viz*:

> "The dismissal of civil actions is always addressed to the sound judgment and discretion of the court; this, whether the dismissal is sought after a trial has been completed or otherwise, or whether it is prayed for by a defending party or by a plaintiff or claimant."

Thus, for equity consideration, the Court will no longer belabor petitioner amidst its plight of limited resources.

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[16] Section 1, Rule 7 of the RRCTA states:

> "SECTION 1. Applicability of the Rules of the Court of Appeals, exception. — The procedure in the Court *en banc* or in Divisions in original and in appealed cases shall be the same as those in petitions for review and appeals before the Court of Appeals pursuant to the applicable provisions of Rules 42, 43, 44 and 46 of the Rules of Court, except as otherwise provided for in these Rules."

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

[18] G.R. No. 58986, April 17, 1989.

Anent the prayer of petitioner for the cancellation of the hearing of the ICPA in relation to her report on August 17, 2023 at 9:00 a.m., the same is considered moot due to lapse of time.

WHEREFORE, premises considered, petitioner's *Motion to Withdraw Petition for Review* filed on July 4, 2023 is **NOTED and GRANTED**. Accordingly, the instant *Petition for Review* filed on October 27, 2021 is **DISMISSED**, and this case is considered **CLOSED and TERMINATED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice