REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

MONIQUE ELOISE TEVES MERCADO,	**CTA CASE NO. 10461**
Petitioner,	Members:
-versus-	**RINGPIS-LIBAN,** *Chairperson* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE AND BUREAU O INTERNAL REVENUE NO. 12, BACOLOD CITY, REVENUE DISTRICT OFICE NO. 79, DUMAGUETE CITY,	Promulgated:
Respondent.	OCT 08 2024 4:15 p.m.

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RESOLUTION

On December 21, 2020, petitioner sent an email to this Court, informally protesting the denial of her administrative claim for refund.[1]

The Court decided to give due course to the appeal, despite its procedural errors, in the interest of substantial justice. In doing so, We also requested the Integrated Bar of the Philippines ("IBP") to designate a lawyer to represent petitioner, who qualified as an indigent litigant, and file a Petition for Review compliant with the relevant rules.[2] Atty. Marcelino Michael I. Atanante IV and Atty. Julie Mae Marie P. Cantos, both of the Legal Aid Office of the IBP, then entered their appearance on July 22, 2021.[3]

Due to an inability to consistently and reliably communicate with petitioner, who seems to have moved to Taiwan to study in the years since, petitioner's counsel were unable to file a Petition for Review in this case. Atty. Atanante would eventually move to be discharged as petitioner's counsel, citing petitioner's inability to meet with him and discuss her case, whether in person or online, and claiming that petitioner does not actually pass the "means and merit" test of the IBP.[4]

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[1] *Rollo*, pp. 14-16.
[2] Resolution, dated May 27, 2021, *id.* at 54-58.
[3] *See* Notice of Appearance, *id.* at 60-62.
[4] *See* Manifestation and Motion to Be Discharged as Counsel *de Oficio* for the Petitioner, *id.*, unpaginated.

In the course of resolving the Motion, the Court eventually sent an email directly to petitioner, asking her if she (1) consents to the withdrawal of Atty. Atanante; and (2) still wishes to pursue the case.[5] Petitioner replied, consenting to her counsel's withdrawal and asking if she could simply withdraw the case as well.[6] In response, the Court required her to file a motion to withdraw her case.[7] Petitioner, however, failed to file such a motion, presumably due once again to a failure to coordinate with her counsel.

The Court thus finds it proper to dismiss this case.

Under *Rule 17, Section 3 of the Rules of Court*, the Court may dismiss a case if a plaintiff fails to prosecute their case or obey the orders of the Court:

> SEC. 3. Dismissal due to fault of plaintiff. — *If, for no justifiable reason, the plaintiff fails* to appear on the date of the presentation of his or her evidenced in chief on the complaint, or *to prosecute his or her action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed* upon motion of the defendant or *upon the court's own motion*, without prejudice of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.
> (Italics supplied.)

Here, petitioner failed to prosecute her case or file a Petition for Review that is compliant with the relevant rules for almost four years, mostly due to being unable to reliably communicate with her counsel. *Why* she was unable to communicate with her counsel is unclear, though it seems to mostly be down to her being busy with other matters, such as her studies abroad. Considering petitioner is an individual taxpayer working as a university employee, this is understandable, but the Court does not deem this a "justifiable reason" for neglecting to act in her own case for close to four years.

Consequently, this case now falls under the conditions for dismissal as enumerated in *Rule 17, Section 3 of the Rules of Court.*

In any event, and despite her failure to file a proper motion manifesting such, it seems that petitioner already seeks to withdraw this case, based on her last email to this Court. As such, the Court does not expect petitioner to still file a Petition for Review and pursue this case any further.

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5 *See* Email to Monique Eloise Teves Mercado, dated June 28, 2024, *id.*, unpaginated.
6 *See* Email to the Court of Tax Appeals, dated July 1, 2024, *id.*, unpaginated.
7 *See* Email to Monique Eloise Teves Mercado, dated July 1, 2024, *id.*, unpaginated.

ACCORDINGLY, the instant judicial claim for refund, raised on December 21, 2020, is hereby **DISMISSED** for failure to prosecute. This dismissal shall not have the effect of an adjudication on the merits.

Given the above, Atty. Marcelino Michael I. Atanante IV is hereby **DISCHARGED** as counsel *de oficio* for petitioner.

SO ORDERED.

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice