

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

MIGHTY CORPORATION,
Petitioner,

CTA Case No. 9650

Members:

-versus-

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MANAHAN, JJ.

**COMMISSIONER NICANOR E.
FAELDON in his capacity as the
COMMISSIONER OF THE
BUREAU OF CUSTOMS,**
Respondent.

Promulgated:

OCT 06 2017

X- - - - - 10:30 a.m. - - - - - X

R E S O L U T I O N

This resolves petitioner's **Motion to Withdraw Petition**¹ filed on September 13, 2017, without respondent's comment despite due notice, and **Motion for Early Resolution**² filed on September 20, 2017.

In the Motion to Withdraw Petition, petitioner prays for the withdrawal of the petition for certiorari dated August 7, 2017 and the dismissal of the case. On the other hand, petitioner's Motion for Early Resolution prays for the immediate issuance of an order granting the withdrawal of its petition for certiorari dated August 7, 2017.

The records of the case will bear that, as manifested by petitioner's counsel during the hearing scheduled on August 30, 2017, petitioner Mighty Corporation was bought by JTI Philippines and will close its operation on September 7, 2017 upon change in management.³

Section 1, Rule 17 of the Rules of Court provides that:

¹ Docket, CTA Case No. 9650, pp. 622-623.

² *Id.* at 632-633.

³ *Id.*, Order dated August 30, 2017, p.615.

Section 1. *Dismissal upon notice by plaintiff.* — A complaint may be dismissed by the plaintiff by filing a notice of dismissal at any time before service of the answer or of a motion for summary judgment. Upon such notice being filed, the court shall issue an order confirming the dismissal. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a notice operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in a competent court an action based on or including the same claim. (1a)

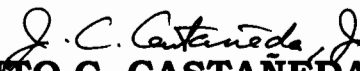
The above cited provision allows the plaintiff, which is the petitioner in the instant case, as a matter of right, to withdraw or ask for the dismissal of a case it initiated, provided that the respondent has not yet served his answer or motion for summary judgment.

The records of the case also reveal that, as of date, respondent has not yet served or filed his Answer despite due notice.⁴ Thus, petitioner can withdraw and ask for the dismissal of its case.

WHEREFORE, premises considered, both motions are **GRANTED** and this Court **CONFIRMS** the dismissal of the petition for certiorari dated August 7, 2017, as a matter of right, pursuant to Section 1, Rule 17 of the Rules of Court.

Accordingly, petitioner's prayer for temporary restraining order becomes moot and academic upon withdrawal of said petition.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


CAESAR A. CASANOVA
Associate Justice


CATHERINE T. MANAHAN
Associate Justice

⁴ Docket, Summons dated August 14, 2017, p. 610; Order dated September 14, 2017, p. 624.