REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

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MISNET INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8313

Members:

DEL ROSARIO, P.J., Chairperson, *and* **UY,** JJ.

Promulgated:

SEP 01 2020 11:51 am

x - x

RESOLUTION

Records show that petitioner filed the instant *Petition for Review* on July 29, 2011 docketed as CTA Case No. 8313, assailing the Final Decision on Disputed Assessment dated March 22, 2011, assigned to the First Division of this Court or Court in Division.

On September 7, 2011, respondent filed his *Answer with Motion to Dismiss* with petitioner's *Comment/Opposition (On Respondent's Answer with Motion to Dismiss)* filed on September 28, 2011. The Court in Division denied respondent's Motion to Dismiss on October 24, 2011.

Before trial, respondent filed another *Motion to Dismiss (For Lack of Jurisdiction of this Honorable Court)* on February 15, 2012 on the ground that petitioner's judicial appeal has already prescribed for failure to comply with the requirements under Section 228 of the 1997 Tax Code, in relation to Section 10 of Revenue Regulations 12-85.

On March 22, 2012, the Court in Division granted respondent's Motion to Dismiss and the Petition for Review was dismissed for lack of jurisdiction.

Petitioner appealed said dismissal by filing a *Petition for Review* before the Court *En Banc* entitled "*Misnet Inc., Petitioner, versus Commissioner of Internal Revenue, Respondent*", docketed as CTA EB Case No. 915. The Court *En Banc* affirmed the Court in Division's decision and dismissed the Petition for Review for lack of jurisdiction in its *Decision* dated July 15, 2013.

Thereafter, petitioner filed a *Petition for Review on Certiorari* before the Supreme Court entitled "*Misnet Inc., Petitioner, versus Commissioner of Internal Revenue, Respondent*" with docket no. G.R. No. 210604. A copy of the said petition was received by the Court on January 24, 2014.

On June 3, 2019, the Supreme Court rendered a Decision in said case, the dispositive portion of which reads as follows:

> "**WHEREFORE**, the instant petition is **GRANTED**. The case is **REMANDED** to the Court of Tax Appeals 1st Division which is **DIRECTED** to reinstate petitioner's Petition for Review (appeal), in CTA Case No. 8313 and to resolve the same on the merits with reasonable dispatch.
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> **SO ORDERED**."

On February 4, 2020, the Court *En Banc* issued a Resolution certifying that that Supreme Court's Decision in G.R. No. 210604 dated June 3, 2019 had become final and executory on August 16, 2019, CTA Case No. 8313 was remanded to this Division.

In light of the foregoing incidents and directive of the Supreme Court, this case is hereby **REINSTATED** in the dockets of this Court to be resolved on the merits with dispatch.

It appears however that on February 26, 2020, petitioner filed a *Motion to Withdraw Petition for Review* alleging that after consultation with petitioner's counsel, petitioner moves to withdraw the Petition for Review pending before this Court on July 29, 2011.

In the Resolution dated March 11, 2020, the Court directed respondent to file his comment on petitioner's Motion to Withdraw Petition within a period of ten (10) days from receipt.

Per Records Verification dated July 6, 2020, respondent failed to file comment on petitioner's Motion to Withdraw Petition for Review. Thus, on July 21, 2020, petitioner's Motion to Withdraw Petition for Review was submitted for resolution, without respondent's comment.

Hence, this Resolution.

THE COURT'S RULING

Considering that the Revised Rules of the Court of Tax Appeals (RRCTA) is silent regarding the rule on withdrawal of an appeal, We shall apply the Rules of Court suppletorily.

Relative thereto, Section 3, Rule 50 of the 1997 Rules of Civil Procedure, as amended,[1] provides:

> "RULE 50
> **DISMISSAL OF APPEAL**
>
> x x x x
>
> **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."

Based on the foregoing, the granting of a Motion to Withdraw Appeal at this stage is addressed to the sound discretion of the Court. Since there is no basis to deny petitioner's motion, the Court is inclined to grant petitioner's Motion to Withdraw.

However, it bears stressing that by withdrawing the instant Petition for Review, petitioner is deemed to have accepted *the Final Decision on Disputed Assessment* issued by the Regional Director on

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[1] Amended by A.M. No. 19-10-20-SC or the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure, effective May 1, 2020.

March 28, 2011. More so, it's withdrawal shall render the Final Decision on Disputed Assessment dated March 28, 2011 final, executory and demandable.

WHEREFORE, petitioner's *Motion to Withdraw Petition for Review* is hereby **GRANTED**. Accordingly, the *Petition for Review* filed in this case is hereby deemed **WITHDRAWN**

Hence, this case is hereby **CLOSED** and **TERMINATED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice