REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

THIRD DIVISION

JACK A. DE VERA,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 8349

Members:

BAUTISTA, Chairperson,
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, JJ.

Promulgated:

JUL 27 2012

2:01 p.m.

x -- x

RESOLUTION

PALANCA-ENRIQUEZ, J.:

This resolves respondent CIR's "Motion to Dismiss" incorporated in her Answer filed on April 10, 2012 praying for the dismissal of this case on the grounds of lack of jurisdiction, lack of cause of action and for lack of merit.

Despite notice, petitioner failed to file his comment thereto.

Respondent CIR contends that on October 26, 2011, the Third Division of this Court dismissed this Petition for Review for failure to comply with the rule on certification against forum shopping and that the filing of a mere scrap of paper did not toll the running of the prescriptive period; thus, the assessment had become final and executory; that petitioner has no cause of action considering that on October 4, 2011, a Memorandum was issued by BIR Revenue Officer Edwin A. Quejada approving the withdrawal and cancellation of the Formal Assessment Notice issued against petitioner.

On June 8, 2012, the Court ordered respondent CIR to submit, within ten days from notice, a certified true copy of said Memorandum.

In compliance thereto, on June 25, 2012 respondent CIR filed the original copy of said Memorandum dated October 4, 2011.

A careful perusal of the Memorandum shows that the Formal Assessment Notice was forwarded back to Miriam Aguila, Chief of the Assessment Division, in view of the Results of the Re-Investigation, which reads, as follows:

> "<u>RESULTS OF RE-INVESTIGATION</u>
>
> Based on the provided Certificate of Live Birth, as Annex "A", he had a two qualified dependent as of the year 2007, which will prove that the claimed Additional Exemption is valid.
>
> xxx xxx."

Pursuant thereto, Ms. Aguila withdrew and cancelled the said assessment, which was duly approved by Regional Director Nestor S. Valeroso of Revenue Region 8.

In the instant Petition for Review, petitioner prays for the cancellation and withdrawal of the assessment IT-PAO15-08-11-0306 notice in the amount of P6,851.34. With the BIR's cancellation and withdrawal of the said assessment, through the Memorandum issued by Revenue Officer Edwin A. Quejada, the instant Petition for Review has been rendered moot and academic. Hence, the Court has no alternative, but to grant the "Motion to Dismiss."

WHEREFORE, premises considered, respondent CIR's "Motion to Dismiss" is hereby **GRANTED**. Accordingly, the instant Petition for Review is hereby **DISMISSED.**

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice