

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

SECOND DIVISION

**MILLIONSTAR GRAINS
CORP.**, represented by its
President/General Manager,
MS. JAENA BAUTISTA-
MANUNTAG,

Petitioner,

-versus-

CTA CASE NO. 10772

Members:

UY, Chairperson,
BACORRO-VILLENA, and
CUI-DAVID, JJ.

**HON. DISTRICT COLLECTOR
OF CUSTOMS** and **HON. REY
LEONARDO B. GUERRERO**,
Commissioner of Bureau of
Customs,

Promulgated:

FEB 27 2023

Respondents.

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✓ 8:20 a.m.

RESOLUTION

On 7 October 2022, petitioner filed a *Manifestation*. On the same date, counsel for petitioner filed a *Notice of Withdrawal of Counsel*. In its *Manifestation*, petitioner prayed that it be given ample time until the end of December 2022 to find another counsel.

On 17 October 2022, respondents filed their *Manifestation and Motion*, seeking the dismissal of the action on account of petitioner's failure to appear at the pre-trial conference.

On 6 December 2022, the Court promulgated a *Resolution* with the following dispositive portion:

Finding merit, petitioner's prayer is **GRANTED**. Further, petitioner is **GIVEN** thirty (30) days from notice hereof to file its comment on respondent's ***Manifestation and Motion***.

Meanwhile, the pre-trial conference set for **December 7, 2022, at 9:00 a.m.**, is **CANCELLED**, until further orders from this Court.

SO ORDERED.

RESOLUTION

CTA Case No. 10772

Millionstar Grains Corp. vs. Hon. District Collector of Customs and Hon. Rey Leonardo B. Guerrero

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First, petitioner's failure to appear at the pre-trial conference is a ground for the dismissal of the present action. Section 5, Rule 18 of the Rules of Court, as amended, provides:

SECTION 5. Effect of Failure to Appear. — When duly notified, **the failure of the plaintiff and counsel to appear without valid cause when so required**, pursuant to the next preceding Section, **shall cause the dismissal of the action**. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant and counsel shall be cause to allow the plaintiff to present his or her evidence *ex parte* within ten (10) calendar days from termination of the pre-trial, and the court to render judgment on the basis of the evidence offered. [*Emphasis and underscoring supplied.*]

Second, We note that the time requested by petitioner in its *Manifestation* filed on 7 October 2022 to find another counsel has already lapsed.

Third, despite being given ample time to comment on respondent's *Manifestation and Motion* seeking the dismissal of the instant case, petitioner failed to do so.

Considering all these, the dismissal of the instant case is in order.

WHEREFORE, premises considered, respondent's *Manifestation and Motion* is **GRANTED**.

Accordingly, the instant *Petition for Review of Protest and Appeal for Duty and Tax Refund* is **DISMISSED** for petitioner's failure to appear at the pre-trial conference.

SO ORDERED.

(On Leave)

ERLINDA P. UY

Associate Justice


JEAN MARIE A. BACORRO-VILLENA

Associate Justice


LANEE S. CUI-DAVID
Associate Justice