REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Third Division

WELLS FARGO ENTERPRISE GLOBAL SERVICES, LLC - PHILIPPINES,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10126

Members:

RINGPIS-LIBAN, *Chairperson and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated: JUN 09 2023
2:06 p.m.

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RESOLUTION

For this Court's resolution is petitioner's **Motion to Withdraw Petition for Review**, filed on March 10, 2023, without respondent's comment despite notice as per Records Verification Report dated May 26, 2023.

On August 02, 2022, the Court deemed the instant case submitted for decision.[1]

However, petitioner filed the instant motion, praying for this Court to issue an Order granting the withdrawal of this Petition for Review dated July 18, 2019 and declaring this case close and terminated.

Petitioner contends that it filed the instant Petition for Review on July 18, 2019, assailing the respondent's Decision dated May 21, 2019 that denied its claim for refund of its unutilized or excess input value-added tax attributable to its zero-rated sales for the period January to December 2017 in the total amount of Php27,516,580.18. Petitioner also claims that it received on August 26, 2022 the notice of the Resolution dated August 22, 2022 considering this case submitted for decision. According to petitioner, it no longer intends to pursue the Petition and the motion is not intended for delay.

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[1] Docket, Resolution dated August 02, 2022, p. 2353.

Despite the period given, respondent has not filed any comment on the motion.

Section 3, Rule 50 of the Rules of Civil Procedure, as amended, provides:

> "**SEC. 3.** *Withdrawal of appeal.* – An appeal may be withdrawn as of right at any time before the filing of the appellee's brief.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."

As may be gleaned from the foregoing, the withdrawal of an appeal may be either as of right or allowed in the discretion of the Court.

Further, the procedure for the withdrawal of pending appeals before this Court was elucidated by the Supreme Court in *Commissioner of Internal Revenue vs. Nippon Express (Phils.) Corporation*[2], to wit:

> "A perusal of the Revised Rules of the Court of Tax Appeals (RRCTA) reveals the lack of provisions governing the procedure for the withdrawal of pending appeals before the CTA. Hence, pursuant to Section 3, Rule 1 of the RRCTA, the Rules of Court shall suppletorily apply:
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> > Sec. 3. *Applicability of the Rules of Court.* - The Rules of Court in the Philippines shall apply suppletorily to these Rules.
>
> Rule 50 of the Rules of Court - an adjunct rule to the appellate procedure in the CA under Rules 42, 43, 44, and 46 of the Rules of Court which are equally adopted in the RRCTA - states that when the case is deemed submitted for resolution, withdrawal of appeals made after the filing of the appellee's brief may still be allowed in the discretion of the court:
>
> RULE 50
> DISMISSAL OF APPEAL
>
> xxx xxx xxx
>
> > Section 3. *Withdrawal of appeal.* -An appeal may be withdrawn as of right at any time before

[2] G.R. No. 212920, September 16, 2015.

> the filing of the appellee's brief. **Thereafter, the withdrawal may be allowed in the discretion of the court**. (Emphasis supplied)"

Based on the foregoing, the withdrawal of an appeal at this stage may be allowed in the discretion of the Court. In view thereof, and there being no comment or opposition on the part of respondent, the Court shall allow petitioner to withdraw its petition.

WHEREFORE, in view of the foregoing, petitioner's **Motion to Withdraw Petition for Review** is **GRANTED**. Accordingly, the Petition for Review is deemed **WITHDRAWN** and the case is considered **CLOSED** and **TERMINATED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice