

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

SECOND DIVISION

**A DIAGO TRADE AND
SERVICES CORPORATION,**

Petitioner,

CTA CASE NO. 10952

Members:

-versus-

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

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

Promulgated:

NOV 07 2022

10:05 AM [Signature]

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RESOLUTION

On September 1, 2022, the Court issued a Resolution directing petitioner to rectify the noted omissions or deficiencies in its Petition for Review and to submit the judicial affidavits of its intended witnesses within ten (10) days from notice.

The Records Verification dated September 27, 2022 indicates that petitioner failed to comply with the Resolution of the Court dated September 1, 2022.

Section 6, Rule 7 of the Revised Rules of Court provides that only witnesses whose judicial affidavits are attached to the pleading shall be presented by the parties during trial, to wit:

SEC. 6. *Contents.* — Every pleading stating a party's claims or defenses shall, in addition to those mandated by Section 2, Rule 7, state the following:

(a) Names of witnesses who will be presented to prove a party's claim or defense;

(b) Summary of the witnesses' intended testimonies, provided that the judicial affidavits of said witnesses shall be attached to the pleading and form an integral part thereof. Only witnesses whose judicial affidavits are attached to the pleading shall be presented by the parties during trial. Except if a party presents meritorious reasons as basis for the admission of

RESOLUTION

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additional witnesses, no other witness or affidavit shall be heard or admitted by the court; and...

Further, Section 3, Rule 17 of the Revised Rules of Civil Procedure states that if, for no justifiable cause, petitioner fails to comply with the Rules or any order of the court, the complaint may be dismissed upon the Court's own motion, to wit:

SEC. 3. *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

WHEREFORE, premises considered, petitioner A Diago Trade and Services Corporation's Petition for Review is **DISMISSED** for failure to comply with the Rules and order of this Court.

SO ORDERED.



ERLINDA P. UY
Associate Justice

(On Leave)

JEAN MARIE A. BACORRO-VILLENA
Associate Justice



LANEE S. CUI-DAVID
Associate Justice