REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

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SPAR DEVELOPMENT COMPANY, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9060

Members:

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

Promulgated:

AUG 0 8 2019 12:52 p.m.

x - x

RESOLUTION

For this Court's resolution is petitioner's ***Motion to Withdraw Petition***[1] filed on May 28, 2019, with respondent's ***Comment [To: Petitioner's Motion To Withdraw Petition dated 22 May 2019]***[2] filed on July 5, 2019, praying that the instant Petition for Review be withdrawn.

In its *Motion*, petitioner avers that it is moving for the withdrawal of its *Petition for Review* contesting the Final Assessment Notice sent by respondent for alleged deficiency tax payments on the ground that the Accounts Receivable Monitoring Division of the Bureau of Internal Revenue – Head Office, has confirmed that petitioner's Application for Compromise Settlement with Proof of Payment has already been endorsed by the Regional Evaluation Board of Revenue Region No. 5 to the National Evaluation Board for final evaluation.

On July 5, 2019, respondent filed his *Comment [To: Petitioner's Motion To Withdraw Petition dated 22 May 2019]* stating no objection to the petitioner's Motion to Withdraw Petition.

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[1] Docket (Vol. II), pp. 900 to 902.
[2] Docket (Vol. II), pp. no page number

In view thereof, respondent's *Comment [To: Petitioner's Motion To Withdraw Petition dated 22 May 2019]* is hereby **NOTED**.

THE COURT'S RULING

In *Commissioner of Internal Revenue vs. Nippon Express (Phils.) Corporation*[3], the Supreme Court elucidated on the procedure for the withdrawal of pending appeals before the Court of Tax Appeals. The Supreme Court held:

> "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:
>
> > **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 (now the 1997 Rules of Civil Procedure) – 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**
> >
> > 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."

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

Based on the foregoing, the granting of a Motion to Withdraw Appeal at this stage is addressed to the sound discretion of the Court.

Considering that the instant Petition for Review has not yet been submitted for decision and that respondent does not interpose any objection to the motion to withdraw petition, the court resolves to grant petitioner's *Motion to Withdraw Petition*.

WHEREFORE, in light of the foregoing considerations, petitioner's *Motion to Withdraw Petition* filed on May 28, 2019 is **GRANTED**. Accordingly, the instant Petition for Review filed on May 28, 2015, is hereby DISMISSED, and this case is considered **CLOSED and TERMINATED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice