

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Third Division

**CITY GOVERNMENT OF
MALOLOS** represented herein by
**MAYOR GILBERT T.
GATCHALIAN,**

Petitioner,

CTA CASE NO. 10547

Members:

- versus -

RINGPIS-LIBAN, *Chairperson*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *II.*

**BUREAU OF INTERNAL
REVENUE,**

Respondent.

Promulgated:

MAR 16 2023

9:30 a.m.

X-----X

RESOLUTION

For resolution is Petitioner’s “Compliance”, with attached “Amended Notice of Withdrawal of Petitioner’s Petition for Review”, filed on March 01, 2023.

Relative to Petitioner’s “Petition for Review” and eventual filing of its “Compliance” before this court, records disclose the following case history:

- 1) On May 17, 2021, Petitioner filed its “Petition for Review”. A review of the petition and the documents attached shows that the said petition is non-compliant with the new Rules of Civil Procedure (A.M. No. 19-10-20-SC), which took effect last May 01, 2020. Also, a defective “Verification and Certification of Non-Forum Shopping” was attached. Lastly, no payment of docket fee was enclosed with the “Petition for Review”. Thus, the case was accepted but considered as undocketed due to insufficient docket fee.

- 2) On June 17, 2021, the Court issued a Letter to the City Legal Office requiring Petitioner to settle the unpaid balance of filing fees in the amount of Php102,000.20.
- 3) On March 24, 2022, Petitioner filed a “Manifestation with Motion” stating that the Php102,000.20 docket fee was already paid, and praying that the instant case be processed accordingly.
- 4) Hence, on April 05, 2022, a Resolution was issued transferring to CTA Case No. 10547 entitled City Government of Malolos represented herein by Mayor Gilbert T. Gatchalian v. Bureau of Internal Revenue, by payment of the complete docket fees, noting Petitioner’s “Manifestation with Motion”, and ordering Petitioner to submit a compliant/correct “Petition for Review” and “Verification and Certification of Non-Forum Shopping”, within five (5) days from notice.
- 5) On May 18, 2022, Petitioner filed a “Motion for Extension of Time to Submit Petition for Review and Verification and Certification of Non-Forum Shopping”. However, records show that only one (1) copy was filed.
- 6) On June 01, 2022, a Resolution was issued ordering Petitioner to submit three (3) additional copies of the “Motion for Extension of Time to Submit Petition for Review and Verification and Certification of Non-Forum Shopping”, within five (5) days from notice.
- 7) On June 06, 2022, Petitioner filed a “Compliance” with attached “Petition for Review” and “Verification and Certification of Non-Forum Shopping”. However, a review of the petition and the documents attached shows that the said petition is still non-compliant with the new Rules of Civil Procedure (A.M. No. 19-10-20-SC), which took effect last May 01, 2020.
- 8) The next day, The Court received Petitioner’s “Final Motion for Extension of Time to Submit Compliant Petition for Review and Verification and Certification of Non-Forum Shopping” which was filed *via* registered mail on May 27, 2022. Records show that only one (1) copy was filed.
- 9) On June 17, 2022, Petitioner filed a “Compliance” with attached “Final Motion for Extension of Time to Submit Compliant

Petition for Review and Verification and Certification of Non-Forum Shopping”.

- 10) On July 20, 2022, a Resolution was issued ordering Petitioner to submit a correct “Petition for Review” together with the Judicial Affidavits of the witnesses, within ten (10) days from notice, before the court acts on the “Petition for Review”. Upon receipt of Petitioner’s pleading or the lapse of the period granted, the Court shall be constrained to act accordingly.
- 11) On August 23, 2022, Petitioner filed a “Motion for Extension of Time to Submit Judicial Affidavit of Witnesses”, praying for an additional thirty (30) days extension from September 21, 2022 to file the Judicial Affidavits of witnesses. Again, records show that only one (1) copy was filed.
- 12) On August 26, 2022, a Minute Resolution was issued ordering Petitioner to file additional three (3) copies of its “Motion for Extension of Time to Submit Judicial Affidavit of Witnesses” filed on August 23, 2022, within five (5) days from notice, otherwise, the same shall be deemed as not filed pursuant to *En Banc* Resolution Nos. 04-2012 dated September 3, 2012 and 05-2013 dated May 28, 2013. The Court requires four (4) copies of all pleadings/motions filed after the initiatory pleading.
- 13) On September 09, 2022, Petitioner filed a “Compliance” with attached three (3) copies of its “Motion for Extension of Time to Submit Judicial Affidavit of Witnesses”.
- 14) On September 20, 2022, a Resolution was issued noting Petitioner’s “Compliance” and granting Petitioner’s “Motion for Extension of Time to Submit Judicial Affidavit of Witnesses”. Petitioner was given an additional thirty (30) days extension from September 21, 2022 or until October 21, 2022 to file the Judicial Affidavits of its witnesses, before the court acts on the “Petition for Review”.
- 15) Then on October 05, 2022, the Court received Petitioner’s “Notice of Withdrawal of Petitioner’s Motion for Reconsideration”, which was filed on September 19, 2022 *via* registered mail. Again, records show that only one (1) copy was filed. Records also show that Petitioner failed to attach the registry receipt showing service of the pleading to Respondent.

- 16) Confused with Petitioner's "Notice of Withdrawal of Petitioner's Motion for Reconsideration" since no Motion for Reconsideration was filed by Petitioner and received by this Court, Petitioner was ordered in a Resolution on October 12, 2022 to file a correct motion within five (5) days from notice with four (4) copies thereof and with attached registry receipt, Affidavit of Service by registered mail and explanation for service by registered mail.
- 17) On February 01, 2023, a Resolution was issued reiterating the October 12, 2022 Resolution.
- 18) On March 01, 2023, Petitioner filed the present "Compliance".

In its "Compliance", Petitioner attached its "Amended Notice of Withdrawal of Petitioner's Petition for Review".

Petitioner's "Compliance" is **NOTED**.

As for its "Amended Notice of Withdrawal of Petitioner's Petition for Review", Petitioner expresses its intention to withdraw the "Petition for Review" it filed on May 17, 2021 on the following grounds:

- 1) Despite efforts, the Judicial Affidavit of the witnesses can no longer be produced as the concerned witnesses are no longer connected with the City Government of Malolos; and
- 2) The City Government of Malolos will avail of the compromise provided under the National Internal Revenue Code of 1997, as amended.

Though the prayer as stated in Petitioner's "Amended Notice of Withdrawal of Petitioner's Petition for Review" states that the Court order the withdrawal of its Motion for Reconsideration, the Court shall essentially treat the same as "prayer to order the withdrawal of its Petition for Review".

Under the Revised Rules of Court, a plaintiff/claimant can dismiss a complaint as a matter of right at any time before service of the answer.¹ Section 1 Rule 17 provides:

¹ O.B. Jovenir Construction and Development Corporation, Et. Al. v. Macamir Realty And Development Corporation, Et. Al., G.R. No. 135803, March 28, 2006.

“RULE 17

DISMISSAL OF ACTIONS

Section 1. *Dismissal upon notice by plaintiff.* - A complaint may be dismissed by the plaintiff by filing a notice of dismissal at any time before service of the answer or of a motion for summary judgment. Upon such notice being filed, the court shall issue an order confirming the dismissal. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a notice operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in a competent court an action based on or including the same claim. (1)”²

In the case at bar, since there was no issuance of summons yet, Petitioner can withdraw its “Petition for Review” as a matter of right. Upon filing of a notice thereof, the Court has no other action but to order confirming the withdrawal of the petition.

WHEREFORE, Petitioner’s prayer to withdraw its Petition for Review is **NOTED**.

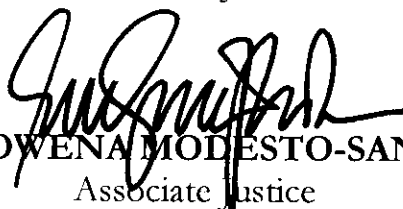
The “Petition for Review” filed on May 17, 2021 is deemed **WITHDRAWN**. This case is deemed **CLOSED** and **TERMINATED**.

SO ORDERED.



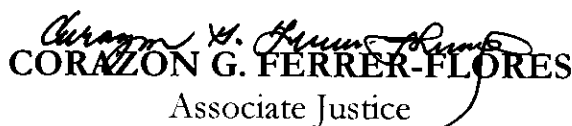
MA. BELEN M. RINGPIS-LIBAN

Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO

Associate Justice



CORAZON G. FERRER-FLORES

Associate Justice

² *Emphasis and underscoring supplied.*