REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

FORTUNE PLASTIC PROCESSING & CHEMICAL CORPORATION represented by WILLY TSAI,	**CTA CASE NO. 9642**
Petitioner,	Members:
	UY, *Chairperson,*
	RINGPIS-LIBAN, *and*
-versus-	**MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE,	Promulgated:
Respondent.	FEB 28 2020 1:36 p.m.

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RESOLUTION

For this Court's resolution is petitioner's "Motion to Withdraw Petition," filed on 10 February 2020.

Petitioner's Motion stems from its availing of the tax amnesty for its deficiency tax for the taxable year 2008, which is the subject of the instant Petition for Review. As the Bureau of Internal Revenue approved of said tax amnesty, petitioner contends that the instant Petition should be considered moot and academic.[1]

Respondent's counsel, in the hearing held by the Court on 11 February 2020, interposed no objection to petitioner's Motion.[2]

The Supreme Court has elucidated on the procedure for the withdrawal of pending appeals before this Court in ***Commissioner of Internal Revenue vs. Nippon Express (Phils.) Corporation***[3], where it held that:

> "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.

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[1] *Rollo* (Vol. II), no page numbers.
[2] *Rollo* (Vol. II), no page number.
[3] G.R. No. 212920, 16 September 2015.

> 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:
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> RULE 50
> **DISMISSAL OF APPEAL**
>
> xxx xxx xxx
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> > **Section 3.** ***Withdrawal of appeal.*** — An appeal may be withdrawn as of right at any time before the filing of the appellee's brief.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."

Petitioner's Motion at this stage is thus addressed to the sound discretion of this Court. Considering that the instant Petition has not yet been submitted for decision and that respondent interposes no objection to the instant Motion, the Court resolves to grant the same.

WHEREFORE, petitioner's "Motion to Withdraw Petition" is hereby **GRANTED**. The instant Petition for Review, filed 7 August 2017, is hereby **DISMISSED**, and the case is considered **CLOSED** and **TERMINATED**. No further pleadings or motions shall be entertained herein.

SO ORDERED.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice