REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

EMERALD ENERGY CORPORATION, Petitioner,	C.T.A. CASE NO. 8840
	Members:
- versus -	BAUTISTA, *Chairperson*, FABON-VICTORINO, *and* RINGPIS-LIBAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 26 2014 1:09 p.m.

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RESOLUTION

Before the Court is the Letter dated June 24, 2014 of the law firm Romulo Mabanta Buenaventura Sayoc & De Los Angeles law office, appearing as counsel for petitioner, requesting for leave to undo the filing of the Petition for Review dated June 23, 2014 and for the refund of the docket fees paid therefor.

In the said Letter, petitioner posits that the instant Petition was filed on June 23, 2014 at 2:45 p.m. and the process was completed at 5:02 p.m. on the same date. Minutes thereafter, counsel for petitioner received an instruction from the client, who is based in Thailand, not to proceed with the filing of the case. Counsel suspects that the client failed to consider that Manila time is one (1) hour ahead of Bangkok time, thus, the late instruction not to file the instant Petition. In view of the said instruction, counsel verbally requested the Office of the Clerk of Court for the withdrawal of the Petition and the amount paid as filing and docket fees. Since the filing of the petition had been completed and the receiving office had already been closed, the request was denied with the advise to seek remedy with the Division of the Court to which the case would be subsequently raffled. On the following day or on June 24, 2014, counsel filed the subject letter of even date, which the Court now treats as a motion to withdraw the instant petition and the corresponding docket and filing fees paid therefor.[1]

By way of comment,[2] respondent manifested that she has no opposition to the motion of petitioner to withdraw its Petition for Review dated June 23, 2014.

There being no objection interposed by respondent, the motion to withdraw the Petition for Review filed on June 23, 2014 is hereby **GRANTED**.

As to the motion to withdraw the amount paid as filing and docket fees, Section 3, Rule 6 of the Revised Rules of the Court of Tax Appeals provides, as follows:

> SEC. 3. *Payment of docket fees.*-The Clerk of Court shall not receive a petition for review for filing unless the petitioner submits proof of payment of the docket fees. Upon receipt of the petition or the complaint, it will be docketed and assigned a number, which shall be placed by the parties on all papers thereafter filed in the proceeding. The Clerk of Court will then issue the necessary summons to the respondent or defendant.

From the foregoing, it is clear that payment of filing and docket fees is required before any initiatory pleading is deemed filed. Counsel for petitioner avers that it paid the assessed docket and filing fees and completed the process of filing the instant Petition for Review when it received the instruction from its client.

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[1] See Resolution dated July 30, 20143
[2] See Manifestation dated August 11, 2014 filed by respondent.

Relevantly, Section 8, Rule IX of the Internal Rules of the Court of Tax Appeals provides:

> SEC. 8. *Non-refund of docket fees.*- The docket and other lawful fees, including deposit for costs, once paid, shall be non-refundable, except when erroneously made.

There is nothing in the record that indicates that payment of filing and docket fees was erroneously made or that something irregular occurred in the filing process. Petitioner admitted that the filing of the instant petition was completed and only thereafter that a contrary instruction was received from its client.

Finally, counsel invokes fairness and equity as grounds for the refund prayed for but equity, which has been aptly described as \`justice outside legality,' is applied only in the absence of, and never against, statutory law, in this case, the judicial rules of procedure.[3]

WHEREFORE, the Petition For Review dated June 23, 2014 filed by Emerald Energy Corporation is deemed **WITHDRAWN**.

On the other hand, the prayer for the refund of docket and filing fees is **DENIED**, for lack of legal basis.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

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[3] Antonio R. Agra, Cayetano Ferreria, Napoleon M. Gamo and Vicente O. Novales vs. Philippine National Bank, G.R. No. 133317, June 29, 1999.

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice