REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

STAR RECORDING, INC. (now merged with ABS-CBN Film Productions, Inc.),
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10409

Members:

DEL ROSARIO, *P.J., Chairperson, and*
MANAHAN, *JJ.*

Promulgated:
JUL 01 2021 1:59 pm

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RESOLUTION

On February 16, 2021, petitioner filed its *Manifestation with Motion for Leave of Court.* Petitioner states that on January 5, 2021, it formally submitted an application for the compromise settlement of the subject deficiency tax assessments; and, that on February 5, 2021, it received information that its application for compromise settlement was favorably considered by the National Evaluation Board (NEB) of the Bureau of Internal Revenue (BIR). Thus, petitioner prays that proceedings in the instant case be suspended for sixty (60) days while respondent is in the process of preparing and issuing the relevant documentation and certification confirming the approval of the compromise settlement.

On March 8, 2021, petitioner filed through email its *Manifestation and Notice to Withdraw*[1] stating that with the issuance of the Certificate of Availment on February 5, 2021 confirming the NEB's approval of petitioner's application for compromise, the subject case has become moot and academic.

Respondent interposed no objection to both of petitioner's *Manifestations*, as stated in his *Comment/Manifestation (On Petitioner's Manifestation with Motion for Leave of Court*) and

[1] Another copy was personally filed on March 9, 2021.

Comment (On Petitioner's Manifestation and Notice to Withdraw), filed on March 10, 2021 and June 2, 2021, respectively.

The *Manifestation and Notice to Withdraw* is noted.

The Supreme Court has discussed the procedure for the withdrawal of pending appeals before the Court of Tax Appeals (CTA), as follows:

> 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 I 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.
>
> Rule 50 of the Rules of Court – 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
> >
> > xxx xxx xxx
> >
> > 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.** (Emphasis supplied) [2]

Based on the foregoing, the withdrawal of the appeal may be allowed upon the discretion of the Court. Thus, considering that the instant case has not yet been submitted for decision; that respondent has no objection to the withdrawal of the petition; and, that the assessments subject of this case have been compromised as shown by the Certificate of Availment

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[2] *Commissioner of Internal Revenue v. Nippon Express (Phils.) Corp.,* G.R. No. 212920, September 16, 2015.

dated February 5, 2021, the Court grants the withdrawal of the Petition for Review.

WHEREFORE, petitioner's *Manifestation and Notice to Withdraw* is **GRANTED**. Accordingly, the Petition for Review filed on November 23, 2020 is **DISMISSED**, and the case is considered **CLOSED** and **TERMINATED**.

With the foregoing, petitioner's *Manifestation with Motion for Leave of Court* is moot and academic.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice