

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

PETRON CORPORATION,

Petitioner,

CTA CASE NO. 11376

Members:

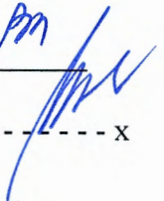
- versus -

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

Promulgated:

COMMISSIONER OF CUSTOMS,

Respondent.

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RESOLUTION

Before this Court is petitioner's **Notice of Withdrwal** (sic)/ **Compliance**, filed on April 18, 2024, praying for the Court to take note of the notice and issue an order confirming the dismissal of its *Petition for Review* without prejudice.

Section 1, Rule 17 of the Rules of Court provides:

**“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 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.”

The above provision ordains the dismissal of the complaint by the plaintiff as a matter of right *at any time* before service of the answer.¹ The plaintiff is accorded the right to dismiss the complaint without the necessity

¹ *O.B. Jovenir Construction and Development Corporation, et al. vs. Macamir Realty and Development Corporation, et al.*, G.R. No. 135803, March 28, 2006.

of alleging in the notice of dismissal any ground nor of making any reservation.²

Records show that petitioner filed the instant *Petition for Review (With Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction)* on January 10, 2024.

On February 19, 2024, the Court issued a Resolution ordering the issuance of the Summons to respondent and directed respondent to file within five (5) days, from receipt of the summons or the resolution whichever comes first, his comment/opposition to petitioner's *Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction*. Accordingly, Summons was issued to respondent on even date.

On March 6, 2024, respondent filed a *Motion to Admit with Attached Comment* profusely apologizing for the belated filing of his *Comment* due to heavy pressure of work on other equally important cases. Acting thereon, the Court issued the Resolution dated March 19, 2024 granting respondent's motion and noting his *Comment*.

During the hearing of the *Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction*, on March 19, 2024, petitioner manifested that it will be filing a motion to withdraw the case; however, the Court ordered petitioner to file a written notice. As such, petitioner, on April 18, 2024, filed the present *Notice of Withdrwal (sic)/Compliance*.

As stated earlier, the filing of withdrawal of the petition for review is a matter of right *at any time before service of the answer*. In the instant case, respondent has not yet filed his Answer; hence, it appears that petitioner has not been served a copy thereof. Petitioner, therefore, has the right to withdraw its petition by mere notice to the Court.

As the Supreme Court pronounced in the case of *Go vs. Cruz*,³ viz:

"The dismissal of civil actions is always addressed to the sound judgment and discretion of the court; this, whether the dismissal is sought after a trial has been completed or otherwise, or whether it is prayed for by a defending party or by a plaintiff or claimant. **There is one instance however where the dismissal of an action rests exclusively on the will of a plaintiff or claimant, to prevent which the defending party and even the court itself is powerless, requiring in fact no action whatever on the part of the court except the acceptance and recording of the causative**

² *Ibid.*

³ G.R. No. 58986, April 17, 1989.

document. This is dealt with in Section 1, Rule 17 of the Rules of Court, xxx” (Citations omitted. Boldfacing supplied)

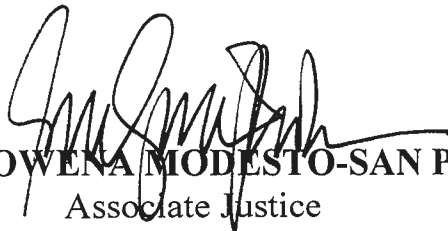
Considering that no answer has been filed by respondent of which petitioner was served a copy thereof, this Court holds that the withdrawal of the instant *Petition for Review* is a matter of right of the petitioner.

WHEREFORE, premises considered, petitioner's *Notice of Withdrawal* (sic)/*Compliance* filed on April 18, 2024 is **NOTED** and **GRANTED**. Accordingly, the instant *Petition for Review* filed on January 10, 2024 is **DISMISSED**, and CTA Case No. 11376, including the ancillary remedy filed, is considered **CLOSED** and **TERMINATED**.

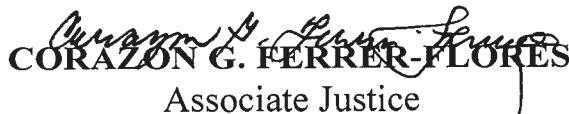
SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice