

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

THIRD DIVISION

**REPUBLIC CEMENT
SERVICES, INC. [Formerly
Lafarge Cement Services
(Philippines), Inc.],**
Petitioner,

CTA CASE NO. 9750

Members:

- versus -

**UY, Chairperson, and
RINGPIS-LIBAN, JJ.**

**COMMISSIONER OF
INTERNAL REVENUE,**
Respondent.

Promulgated:

DEC 04 2018

C — 11:06 a.m.

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RESOLUTION

Before this Court is petitioner's **Motion to Withdraw**, filed on July 16, 2018, without respondent's comment despite due notice as per Records Verification dated September 3, 2018.

Petitioner contends that in pursuing this case, it would require the testimony and presence of several managerial officers in various offices outside the Philippines. Allegedly, this would entail disruption in carrying out the tasks of the said officers which may adversely impact the operations of the companies they manage. Petitioner claims that the hours required for the travel and testimony, as well as travel expenses and accommodations of the aforesaid officers would be shouldered by petitioner. Petitioner also expresses that due to the prevailing practice of respondent to appeal all decisions adverse to him, petitioner would incur not only the cost of litigation during the pendency of the instant case with this Court, but also during appeal.

As such, petitioner concludes after a thorough evaluation and analysis that the costs of pursuing this case shall equal or even exceed the present value of a favorable decision even the claim is granted in its entirety. Thus, in order to avoid incurring additional legal and related expenses and to prevent disruption in the companies of the managerial officers whose testimonies are required, petitioner resolves to desist from further litigating this case.

Section 2, Rule 17 of the Rules of Court states:

"SEC. 2. *Dismissal upon motion of plaintiff.* – Except as provided in the preceding section, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the right of the defendant to prosecute his counterclaim in a separate action unless within fifteen (15) days from notice of the motion he manifests his preference to have his counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court."

Apparently, respondent's *Answer*¹ that was filed on February 19, 2018, does not contain counterclaim.

Considering the foregoing and without any opposition/objection filed by respondent, the Court deems it proper to dismiss the instant case.

WHEREFORE, premises considered, petitioner's **Motion to Withdraw** is **GRANTED**. Accordingly, this Petition for Review is hereby **DISMISSED without prejudice**.

¹ Docket, pp. 197-200.

SO ORDERED.


ERLINDA P. UY
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice