REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9220

Members:

DEL ROSARIO, *Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:
OCT 20 2016 ; 1:08 p.m.

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RESOLUTION

For resolution is petitioner's Motion to Withdraw Petition for Review filed on July 21, 2016,[1] without respondent's comment thereon, despite due notice as per Records Verification dated September 22, 2016.[2]

In its Motion, petitioner prays that the Court allow the withdrawal of its Petition for Review from the records of this Court which seeks the refund of or issuance of tax credit certificate (TCC) in the amount of Two Hundred Sixty Million Six Hundred Fourteen Thousand Two Hundred Fifty Six and 53/100 pesos (P260,614,256.53) representing excise taxes alleged to have been erroneously paid by petitioner on its sales and deliveries of imported tax-paid Jet A-1 fuel to various international air carriers covering the period from December 17, 2013 to December 31, 2014.

Petitioner claims that its applications for tax refund or issuance of TCC for the period from December 17, 2013 to December 31, 2014 filed with the Large Taxpayers Excise Audit Division II of the Bureau of Internal Revenue (BIR) had been granted, one totally and the other partially by respondent. Thus, on June 10, 2015, the Bureau of

[1] *Motion to Withdraw Petition for Review (with Motion to Cancel Commissioner's Hearings and the Filing of Motion to Commission an Independent CPA)*, Docket, pp. 1549-1554.
[2] *Docket*, p. 1580.

Customs (BOC), which is said to be the government agency authorized by the BIR to issue TCC involving claims for refund of taxes on importations, issued on June 10, 2015[3], a TCC in favor of petitioner in the total amount of Fifteen Million Three Hundred Forty Two Thousand One Hundred Fifty Six and 8/100 Pesos (P15,342,156.08) representing excise taxes on imported Jet A-1 fuel sold to international carriers for the period from December 1, 2013 to December 31, 2014. The BOC issued another TCC on June 30, 2016[4] in favor of petitioner in the total amount of Two Hundred Forty Million Eight Hundred Fifty Nine Thousand Seven Hundred Fifty Four and 87/100 (P240,859,754.87) representing excise taxes paid for its importation of Jet A-1 Fuel during the period January 1, 2014 to December 31, 2014 which were subsequently sold and delivered to various international carriers.

Pursuant to the Revised Rules of the Court of Tax Appeals (RRCTA), the Rules of Court also applies suppletorily to the RRCTA[5] and the procedure in the Court *En Banc* or in Division in original and in appealed cases shall be the same as those in petitions for review or appeals before the Court of Appeals.[6] In this regard, Section 3, Rule 50 of the Rules of Court provides:

> "DISMISSAL OF APPEAL
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> xxx
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> SEC. 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."

With the issuance of the aforementioned TCCs in favor of petitioner, without objection from respondent and considering that the Court has yet to submit the case for decision, there is no reason for the Court not to grant the Motion to Withdraw Petition for Review.

By withdrawing its Petition for Review, petitioner is deemed to have accepted the decision of respondent. Consequently, since respondent had already granted the claim for issuance of TCCs in the reduced total amount of P256,201,910.95, the difference between petitioner's claim in its Petition for Review and the amount of the

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[3] Annex "A" and "B", *Docket*, pp. 1573-1574.
[4] Annex "C" and "D", *Docket*, pp. 1575-1576.
[5] Section 3, Rule 1 of the RRCTA.
[6] Section 1, Rule 7 of the Revised Rules of the Court of Tax Appeals (RRCTA).

TCCs may no longer be included in petitioner's future claims for refund or issuance of TCC.

WHEREFORE, the Motion to Withdraw Petition for Review is **GRANTED.** The Petition for Review is **DISMISSED** and the case is declared **CLOSED** and **TERMINATED**. Let an entry of judgment in this case be made in due course.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice