

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

**ENERGY DEVELOPMENT
CORPORATION,**

CTA Case No. 9898

Petitioner, Members:

-versus-

**DEL ROSARIO, P.J., Chairperson,
FABON-VICTORINO, and
MANAHAN, JJ.**

**COMMISSIONER OF INTERNAL
REVENUE,** Promulgated:

Respondent.

APR 10 2019 : 11:02am

X - - - - - X

R E S O L U T I O N

This resolves petitioner's **Motion to Withdraw Petition for Review**¹ filed on January 8, 2019 without respondent's comment or opposition² despite due notice³.

Petitioner avers that upon further evaluation, it no longer wishes to pursue its petition involving a claim for refund in the aggregate amount of Php120,353,276.85, representing its excess and unutilized input value-added tax for the 1st quarter of calendar year 2016 attributable to its zero-rated sales of power and fuel generated from renewable sources of energy, such as geothermal energy sources.

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

Section 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

¹ Docket, CTA Case No. 9898, pp. 367-370.

² *Id.*, Records Verification dated March 7, 2019, p. 375.

³ *Id.*, Resolution dated January 18, 2019, p. 372.

RESOLUTION

CTA Case No. 9898

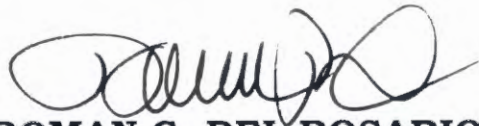
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the motion he manifests his preference to have his counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court.

Aside from the reason above-mentioned, petitioner did not explain further its non-interest in pursuing such claim for refund.

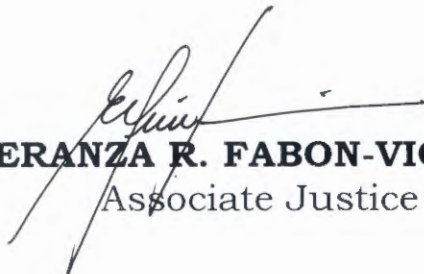
WHEREFORE, considering its non-interest in pursuing the instant claim for refund, petitioner's Motion to Withdraw Petition for Review is hereby **GRANTED**. Accordingly, the instant case is hereby **DECLARED CLOSED** and **TERMINATED** with prejudice.

SO ORDERED.



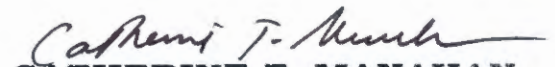
ROMAN G. DEL ROSARIO

Presiding Justice



ESPERANZA R. FABON-VICTORINO

Associate Justice



CATHERINE T. MANAHAN

Associate Justice