REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NOS. 11057 & 11172

Members:

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

Promulgated:

APR 04 2024 8:55 Am

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RESOLUTION

For this Court's resolution are:

1. petitioner's **Motion to Withdraw Petition for Review (Re: CTA Case No. 11172),** filed on January 19, 2024, without respondent's comment based on Records Verfiication dated March 12, 2024; and,

2. petitioner's **Compliance** filed on March 15, 2024.

In its motion, petitioner avers that the refund of erroneously paid excise taxes on locally produced and imported **Jet A-1 fuel,** which were subsequently sold and delivered to international carriers and various tax-exempt entities during the period **June 16, 2021 to December 31, 2021**, in the amount of Eight Hundred Ninety-Six Million Nine Hundred Six Thousand Eight Hundred Thirty-Six Pesos (₱896,906,836.00), and which is the subject matter of the Petition for Review in CTA Case No. 11172, has been granted by the Bureau of Internal Revenue (BIR).

The amount of ₱896,906,836.00 was part of the total amount of One Billion Four Hundred Eighty-Eight Million Four Hundred Fifty-Four Thousand Eight Hundred Eighty-Six and 83/100 Pesos (₱1,488,454,886.83) partially granted by the BIR, arising from petitioner's erroneous payment of excise taxes on imported and locally produced Automotive Diesel Oil, Unleaded Premium Gasoline, **Jet A-1 Fuel**, Kerosene Fuel and LPG which were subsequently sold to international carriers and various tax-exempt entities, for the period **June 16, 2021 to December 31, 2021**.

A Tax Credit Certificate in the amount of ₱1,488,454,886.83[1] was already issued by the Bureau of Customs by virtue of the authority granted by the BIR.[2]

The Revised Rules of the Court of Tax Appeals (RRCTA) is short of a provision governing the procedure for the withdrawal of a case pending appeal before it; hence, pursuant to Section 3, Rule 1 of the RRCTA, the Rules of Court shall suppletorily apply, *viz*:

> 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 (ROC), while an adjunct rule to the appellate procedure in the Court of Appeals under Rules 42, 43, 44, and 46 of the ROC, is equally adopted in the RRCTA.[3]

Rule 50 of the ROC states that withdrawal of an appeal made after the filing of the appellee's brief may be allowed in the discretion of the court, to quote:[4]

> 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.

We note that respondent has filed his Answer on August 15, 2023. Nonetheless, finding the reason advanced by petitioner sufficient; and, in the absence of a comment/objection from the respondent, the Court is inclined to allow petitioner's motion.

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1 Annex "B" of the Motion to Withdraw Petition for Review (Re: CTA Case No. 11172).

2 Annex "A" of the Motion to Withdraw Petition for Review (Re: CTA Case No. 11172).

3 Section 1, Rule 7 of the RRCTA states:

"SECTION 1. Applicability of the Rules of the Court of Appeals, exception. — The procedure in the Court *en banc* or in Divisions in original and in appealed cases shall be the same as those in petitions for review and appeals before the Court of Appeals pursuant to the applicable provisions of Rules 42, 43, 44 and 46 of the Rules of Court, except as otherwise provided for in these Rules."

4 *Commissioner of Internal Revenue vs. Nippon Express (Phils.) Corporation,* G.R. No. 212920, September 16, 2015.

WHEREFORE, premises considered, petitioner's *Motion to Withdraw Petition for Review (Re: CTA Case No. 11172)* filed on January 19, 2024 is **GRANTED**. Accordingly, the Petition for Review in CTA Case No. 11172, filed on May 26, 2023, is **DISMISSED**, and the case is considered **CLOSED and TERMINATED**.

As regards the petitioner's *Compliance,* filed on March 15, 2024, submitting the Official Receipt No. 4294802, dated March 12, 2024, as proof of payment for the fine[5] in the amount of ₱500.00, the same is **NOTED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

[5] For belated filing of *Motion to Reset the Presentation of Atty. Ma. Clarissa C. Arguelles and the Commissioning of the Independent Certified Public Accountant.*