REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

THERMAPRIME WELL SERVICES, INC., Petitioner,	**CTA CASE Nos. 9033, 9044 & 9232**
	Members:
- versus -	**DEL ROSARIO,** *Chairperson,* **UY,** *and* **MINDARO-GRULLA,** JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 22 2017 ; 10:00 am

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RESOLUTION

For resolution is petitioner's Motion to Withdraw Petition filed on March 21, 2017[1] without respondent's comment despite due notice as per Records Verification dated April 20, 2017.[2]

Records disclose that on April 24, 2015, petitioner filed a Petition for Review seeking refund of its alleged unutilized input Value-Added Tax ("VAT") for the fourth (4th) quarter of 2012 amounting to Two Million Three Hundred Fifty-Two Thousand Four Hundred Three Pesos and Seventy-Two Centavos (₱2,352,403.72), which case was docketed as CTA Case No. 9033.

On May 14, 2015, petitioner filed a similar Petition for Review covering the third (3rd) quarter of 2012 for the amount of Three Million Two Hundred Seventy-Three Thousand Three Hundred Forty-Eight Pesos and Seventy-Two Centavos (₱3,273,348.72), which case was docketed as CTA Case No. 9044.

On January 7, 2016, petitioner filed another similar Petition for Review covering the second (2nd) quarter of 2012 for the amount of

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[1] *Motion to Withdraw Petition*, CTA Docket, pp. 645-649.
[2] CTA Docket, p. 653.

Three Million Two Hundred Forty-Two Thousand Nine Hundred and Twenty-Five Pesos and Fifty-Seven Centavos (₱3,242,925.57), which case was docketed as CTA Case No. 9232.

CTA Case Nos. 9033, 9044 and 9232 were consolidated pursuant to the Court's Resolution dated November 11, 2015 and July 1, 2016.

In its Motion, petitioner claims that upon further examination of its records and books, it discovered an inadvertent miscalculation in its accounting which, if made known earlier, would have prevented petitioner from filing the consolidated cases.

Pursuant to the Revised Rules of the Court of Tax Appeals (RRCTA), the Rules of Court shall suppletorily apply to the RRCTA[3] 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 and appeals before the Court of Appeals.[4] In this regard, Section 3, Rule 50 of the Rules of Court provides:

> "RULE 50
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> 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."

There being no objection from respondent, 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 denial decision of respondent in its letter dated March 23, 2015[5] on its refund claim subject of CTA Case No. 9033, denial Memorandum (decision) received by petitioner on December 8, 2015 on its refund claim subject of CTA Case No. 9232[6] and the "deemed denial decision" on its administrative claim relating to CTA Case No. 9044 on account of respondent's inaction.[7]

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[3] Section 3, Rule 1 of the RRCTA.
[4] Section 1, Rule 7 of the RRCTA.
[5] CTA Case No. 9033, Docket, p. 33.
[6] CTA Case No. 9232, Docket, p. 70.
[7] CTA Case No. 9044, Docket, p. 15.

WHEREFORE, the Motion to Withdraw Petition is **GRANTED.** The consolidated Petitions for Review are **DISMISSED** and the cases are considered **CLOSED** and **TERMINATED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice