REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8948

Members:

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

Promulgated:

OCT 12 2016 ; 11:15 a.m.

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RESOLUTION

For resolution is petitioner's Motion to Withdraw Petition for Review filed on June 30, 2016[1] without respondent's comment despite due notice as per Records Verification dated September 16, 2016.

In its Motion, petitioner prays that the Court allow the withdrawal of its Petition for Review filed on December 18, 2014[2] which seeks the refund of or issuance of tax credit certificate (TCC) in the amount of Eighty Million Five Hundred Forty-Seven Thousand Seven Hundred Ten and 35/100 pesos (P80,547,710.35) representing excise taxes alleged to have been erroneously paid on its sales and deliveries of imported Jet A-1 fuel to various international air carriers and to tax-exempt entities covering the period from January 1, 2013 to December 31, 2013.[3]

Petitioner claims that its applications for tax refund or issuance of TCC for the period from January 1, 2013 to December 31, 2013 filed with the Large Taxpayers Excise Audit Division II of the Bureau of Internal Revenue (BIR) on December 16, 2014 had been partially granted by respondent.[4] Thus, on June 27, 2016 the

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[1] *Motion to Withdraw Petition for Review (with Urgent Motion to Defer/Cancel Hearings Scheduled on July 5, 2016 and August 2, 2016)*, Docket, pp. 2028-2033.
[2] Docket, pp. 14-60.
[3] *Id.* at pp. 14 and 25.
[4] *Supra* Note 1, p. 2028

Bureau of Customs (BOC), the government agency authorized by the BIR to issue TCC involving claims for refund of taxes on importations, issued a TCC dated June 27, 2016 in favor of petitioner in the total amount of Seventy-Eight Million Four Hundred Forty-Eight Thousand Four Hundred Seventy-Four and 2/100 pesos (₱78,448,474.02) representing excise taxes on sales of imported Jet A-1 fuel sold to international carriers for the period from January 1, 2013 to December 31, 2013.[5]

Pursuant to the Revised Rules of the Court of Tax Appeals (RRCTA), the Rules of Court also applies suppletorily to the RRCTA[6] 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.[7] 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 TCC 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. And, since respondent had already granted the claim for issuance of a TCC in the reduced amount of ₱78,448,474.02, the difference between petitioner's claim in its Petition for Review and the amount of the TCC 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

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[5] *Id.* at pp. 2028 – 2029; *Tax Credit Certificate*, Docket, p.2048.
[6] Section 3, Rule 1 of the RRCTA.
[7] Section 1, Rule 7 of the Revised Rules of the Court of Tax Appeals (RRCTA).

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

ERLINDA P. UY
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice