REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11369

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. MARK JOEY S. LUCERO
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

DU-BALADAD AND ASSOCIATES
20th Floor, Chatham House
Rufino corner Valero Streets
Salcedo Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **October 7, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 8, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. **11369**

Members:

DEL ROSARIO, P.J., *Chairperson*,
BACORRO-VILLENA, *and*
CUI-DAVID, JJ.

Promulgated:
OCT 07 2024, 1:50PM

x - x

RESOLUTION

For the Court's resolution is petitioner Petron Corporation's (**petitioner**'s/**Petron**'s) "Motion to Withdraw Petition for Review (with Motion to Cancel Hearings and Defer the Filing of the Joint Stipulation of Facts and Issue [**JSFI**] and Motion to Commission Independent Certified Public Accountant [**ICPA**])" (**Motion to Withdraw**) filed on 04 July 2024, with respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Comment (Re: Petitioner's [Motion to Withdraw] filed on July 4, 2024)" (**Comment**) filed on 19 July 2024.

Earlier, in a Minute Resolution dated 01 August 2024, this Court noted respondent's Comment, submitted petitioner's Motion to Withdraw for resolution, and cancelled the hearings scheduled for 12 September 2024 and 26 November 2024.

In its Motion to Withdraw, petitioner informed this Court that, subsequent to the filing of its Petition for Review, the Bureau of Internal Revenue (**BIR**), in a Letter dated 17 April 2024[1], approved its administrative claim for a refund in the amount of **₱3,471,684,566.54**, which partially covers the refund claim subject of this case

[1] Annex "A" to Petitioner's "Motion to Withdraw Petition for Review (with Motion to Cancel Hearings and Defer the Filing of the Joint Stipulation of Facts and Issue [JSFI] and Motion to Commission Independent Certified Public Accountant [ICPA])".

(₱3,593,305,672.00).[2] This claim arose from the erroneous payment of excise taxes on locally produced and imported Jet A-1 fuel that was later sold to various tax-exempt entities during the period from 01 January 2022 to 31 December 2022.

Petitioner also informed the Court that the Bureau of Customs (**BOC**), through the Chairman of the Tax Credit Committee, Atty. Clarence S. Dizon, issued a Tax Credit Certificate (**TCC**) dated 18 June 2024[3], confirming the BIR's approval of its excise tax refund in the amount of **₱3,471,684,566.54**.

In his or her Comment, respondent interposes no objection to the withdrawal of the case and submits the action thereof to the discretion of this Court.

We resolve.

The Court takes note of the factual circumstances that have transpired since the filing of the instant Petition for Review. It is clear from the records that a substantial portion of petitioner's refund claim, *i.e.*, 96.62%[4], has already been granted by the BIR through the issuance of a TCC, thereby effectively satisfying the substantial relief sought by petitioner in this case.

The Rules of Court (**ROC**), as amended, as applied to tax cases, provide that, after the service of an answer, the withdrawal of a case is no longer a matter of right on the part of petitioner, but discretionary upon the Court. Specifically, Sections 1 and 2, Rule 17 of the ROC, as amended, pertinently provide:

> ...
> Sec. 1. *Dismissal upon notice by plaintiff.* — **A complaint may be dismissed by the plaintiff by filing a notice of dismissal at any time before service of the answer** or of a motion for summary judgment. Upon such notice being filed, the court shall issue an order confirming the dismissal. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a notice operates as an adjudication upon the merits when filed by a plaintiff who has once

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[2] Difference of ₱121,621,105.46 (3.38% of the total refund claim).

[3] Annex "B" to Petitioner's "Motion to Withdraw Petition for Review (with Motion to Cancel Hearings and Defer the Filing of the JSFI and Motion to Commission ICPA)".

[4] Amount *per* Tax Credit Certificate (**TCC**) of ₱3,471,684,566.54 divided by the amount *per* administrative claim for refund of ₱3,593,305,672.00.

> dismissed in a competent court an action based on or including the same claim.
>
> Sec. 2. *Dismissal upon motion of plaintiff.* — Except as provided in the preceding [S]ection, **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 or her 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 or her counterclaim in a separate action unless within fifteen (15) calendar days from notice of the motion he or she manifests his or her preference to have his or her 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.[5]
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> . . .

Since respondent has already filed an Answer in this case, the dismissal of the instant Petition for Review based on petitioner's Motion to Withdraw is subject to the approval of this Court and will be granted on such terms and conditions as the Court deems proper.

Consistent with the foregoing, in *Office of the Court Administrator v. Judge Augustine A. Vestil*[6], the Supreme Court held that "Section 2 [of Rule 17 of the ROC, as amended] refers to dismissals that are discretionary on the court when the motion for the dismissal of the action is filed by the plaintiff at any stage of the proceedings other than before service of an answer or a motion for summary judgment".

A taxpayer's judicial claim for a refund or tax credit can typically be withdrawn once the claim has been administratively resolved in its favor. The court's discretion in permitting such withdrawal is based on the principle that, once the taxpayer's claim has been satisfied, the judicial action becomes moot.[7]

In this case, there being no objection on the part of respondent, and considering that no counterclaim was raised in the Answer filed by respondent, there is no pending issue that would require the continued

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[5] Underscoring in the original text and emphasis supplied.

[6] A.M. Nos. RTJ-06-2030 & RTJ-07-2032, 05 October 2007.

[7] A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value. (See *Dennis A.B. Funa v. Acting Secretary of Justice Alberto C. Agra, et al.*, G.R. No. 191644, 19 February 2013).

litigation of this case. Furthermore, it is established that the granting of a substantial portion of the administrative refund renders the petition for review moot and academic, as no further relief can be obtained by petitioner from this Court.

Moreover, the withdrawal of the Petition for Review is consistent with the principle of judicial economy[8], as it prevents the unnecessary expenditure of judicial resources in a case where the substantial issue has already been resolved. The Court, therefore, finds merit in granting petitioner's Motion to Withdraw.

WITH THE FOREGOING, finding petitioner's Motion to Withdraw to be in order, and considering that it is generally petitioner's prerogative to withdraw its own Petition for Review, with no objection from respondent, the same is hereby **GRANTED**. Accordingly, the instant Petition for Review filed on 27 December 2023 is hereby **WITHDRAWN**. The above-captioned case is now **CLOSED** and **TERMINATED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

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8 Judicial economy refers to efficiency in the operation of the courts and the judicial system; especially the efficient management of litigation so as to minimize duplication of effort and to avoid wasting the judiciary's time and resources. (See *Ren Transport Corp. and/or Reynaldo Pazcoguin III v. National Labor Relations Commission (2nd Division), et al.*, G.R. Nos. 188020 & 188252, 27 June 2016).