CTA Form No. 8 (For DCC)

23-000624-0030

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11363

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 Buiding
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 **November 14, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **November 15, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. **11363**

Members:

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

Promulgated:
NOV 14 2024; 10:45AM

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 Scheduled Hearings)" (**Motion to Withdraw**) filed on 05 September 2024, with respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Comment [Re: Petitioner's [Motion to Withdraw] filed on September 5, 2024]" (**Comment**) filed on 12 September 2024.

In a Minute Resolution dated 18 September 2024, this Court noted respondent's Comment and submitted petitioner's Motion to Withdraw for resolution. Notably, in an earlier Minute Resolution dated 09 September 2024, this Court granted petitioner's request to cancel the scheduled hearings and accordingly, cancelled the hearings scheduled for 12 September 2024 (for the presentation of petitioner's witnesses and commissioning of the Independent Certified Public Accountant [**ICPA**]), 15 October 2024 (for the presentation of petitioner's witnesses), 26 November 2024 (for the presentation of the court-commissioned ICPA) and 10 April 2025 (for the presentation of respondent's witness).

In its Motion to Withdraw, 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 16 August 2024[1], confirming the Bureau of Internal Revenue's (**BIR**'s) approval of its excise tax refund in the amount of **₱1,998,200,519.82**.[2]

According to petitioner, the aforesaid TCC was issued to cover its administrative claim for refund of erroneously paid excise taxes on its importation of Automotive Diesel Oil (**ADO**) that was later sold and delivered to various international carriers and tax-exempt entities during the period from 23 December 2021 to 31 December 2022.

In light of the above circumstances, petitioner requests that this Court allows the withdrawal of the instant petition, which seeks a refund of excise taxes paid on its importation of ADO for the period from 23 December 2021 to 31 December 2022, amounting to **₱2,142,144,240.00**.

In his or her Comment, respondent interposes no objection to the withdrawal of the case and submits the action thereon 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.*, 93.28%[3], has already been granted by the BIR through the issuance of a TCC, thereby effectively satisfying the substantial relief that petitioner sought 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:

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1 Annex "A" to Petitioner's "Motion to Withdraw Petition for Review (with Motion to Cancel Scheduled Hearings)".

2 Amount *per* Tax Credit Certificate (**TCC**) of ₱1,998,200,519.82 partially covers the refund claim in this case, which amounts to ₱2,142,144,240.00, leaving a difference of ₱143,943,720.18, or 6.72% of the total refund claim.

3 Amount *per* Tax Credit Certificate (**TCC**) of ₱1,998,200,519.82 divided by the amount *per* administrative claim for refund of ₱2,142,144,240.00.

> . . .
> Section 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 dismissed in a competent court an action based on or including the same claim.
>
> Section 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.[4]
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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*[5], 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.[6]

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4 Emphasis supplied and underscoring in the original text.

5 A.M. Nos. RTJ-06-2030 & RTJ-07-2032. 05 October 2007.

6 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).

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 litigation of this case. Furthermore, it is established that the grant of a substantial portion of the administrative refund renders the petition for review moot and academic, 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[7], as it prevents the unnecessary expenditure of judicial resources in a case where the substantial issue has already been resolved.

WITH THE FOREGOING, finding petitioner's Motion to Withdraw (its own Petition for Review) to be in order, and with no objection from respondent, the same is hereby **GRANTED**. Accordingly, the instant Petition for Review filed on 22 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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[7] 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).