REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

MINDANAO I GEOTHERMAL PARTNERSHIP,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8088

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MINDANAO I GEOTHERMAL PARTNERSHIP,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8107

Members:

BAUTISTA, *Chairperson*
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

MAR 26 2012
ABFernandez 1:15 p.m.

x--x

RESOLUTION

BAUTISTA, J.:

This resolves petitioner's "Motion to Withdraw," with Annexes, filed on January 13, 2012, without any comment/opposition from respondent despite due notice.

In its "Motion to Withdraw," petitioner, through counsel, states as follows:

xxx xxx xxx

4. On October 18, 2010, during the pendency of the case, petitioner received a letter dated October 1, 2010 from the Bureau of Internal Revenue (BIR) with Tax Credit Certificate (TCC) in the amount of ₱17,243,904.09 for the taxable [y]ear 2008 in favor of petitioner attached to it.

xxx xxx xxx

11. Sometime in December 2011, during the pendency of the present consolidated cases, petitioner received a letter and a Tax Credit Certificate (TCC) in the amount of ₱12,158,245.00 from the Bureau of Customs issued in favor of petitioner.

xxx xxx xxx

12. In light of the issuance of the said TCCs in favor of petitioner and considering that the amounts covered by the said TCCs should now be binding and final against respondent, petitioner respectively moves for the withdrawal of its Petitions for Review in the present consolidated cases.

With the foregoing, Section 2 of Rule 17 of the Revised Rules of Court provides as follows:

Rule 17
DISMISSAL OF ACTIONS

xxx xxx xxx

SEC. 2. *Dismissal upon motion of plaintiff.* - Except as provided in the preceding section, 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 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 counterclaim in a separate action unless within fifteen (15) days from notice of the motion he manifests his preference to have his 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.

Based on the above-quoted provision, the approval of a dismissal of an action is discretionary upon the Court.

In the case at bench, petitioner has manifested in writing that with the issuance of tax credit certificates in its favor, it prays for the approval of the withdrawal of the Petitions for Review, and since respondent failed to raise any comment/opposition thereto, the Court finds for the petitioner.

WHEREFORE, petitioner's "Motion to Withdraw" is hereby **GRANTED.** The Petitions for Review are hereby considered **CLOSED AND TERMINATED.**

Accordingly, the "Motion for Partial Reconsideration," filed by registered mail on November 29, 2011, and the "Manifestation," filed on December 1, 2011, both by petitioner, and the "Motion to Admit Attached Supplemental Answer," filed on January 12, 2012 by respondent, are hereby considered **MOOT.**

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice