Introduction

1.   On 9 June 2015, the Applicant filed an application contesting the Administration's decision to decline the reimbursement of a portion of her United States tax liability, triggered by her United Nations income. She requests rescission of the contested decision and payment of USD2,005.00 together with both pre-and post-judgement interest upon the said sum.

2.   The application was transmitted to the Respondent in accordance with art. 8.4 as read with art. 10 of the Rules of Procedure, giving the Respondent 30 calendar days to submit his reply.

3.   On 20 July 2015, the Applicant filed a notice of withdrawal stating that:

> a. Pursuant to the terms and conditions of a confidential settlement agreement, the Applicant hereby withdraws the application filed on 9 June 2015, including the entirety of all the allegations and claims in the proceedings.
>
> b. This is a full and final withdrawal, including on the merits, with no right of reinstatement.

Consideration

4.   The desirability of finality of disputes within the workplace cannot be gainsaid (see *Hashimi* Order No. 93 (NY/2011), dated 24 March 2011, and *Goodwin* UNDT/2011/104). Equally, the desirability of finality of disputes in proceedings requires that a party should be able to raise a valid defence of *res judicata*, which provides that a matter between the same persons, involving the same cause of action, may not be adjudicated twice (see *Shanks* 2010-UNAT-026bis, *Costa* 2010-UNAT-063, *El-Khatib* 2010-UNAT-066, *Beaudry* 2011-UNAT-129). As stated in *Bangoura* UNDT/2011/202, matters that stem from the same cause of action,

though they may be couched in other terms, are *res judicata*, which means that the Applicant does not have the right to bring the same complaint again.

5.   In regard to the doctrine of *res judicata*, the International Labour Organization Administrative Tribunal ("ILOAT") in Judgment No. 3106 (2012) stated at para. 4:

> The argument that the internal appeal was irreceivable is made by reference to the principle of *res judicata*. In this regard, it is argued that the issues raised in the internal appeal were determined by [ILOAT] Judgment 2538. As explained in [ILOAT] Judgment 2316, under 11:
>
>> *Res judicata* operates to bar a subsequent proceeding if the issue submitted for decision in that proceeding has already been the subject of a final and binding decision as to the rights and liabilities of the parties in that regard.
>
> A decision as to the "rights and liabilities of the parties" necessarily involves a judgment on the merits of the case. Where, as here, a complaint is dismissed as irreceivable, there is no judgment on the merits and, thus, no "final and binding decision as to the rights and liabilities of the parties". Accordingly, the present complaint is not barred by *res judicata*.

6.   In the instant case, the Applicant filed a notice confirming that she is withdrawing all the allegations and claims in the proceedings and therefore withdrawing the matter fully and finally, including on the merits without liberty to reinstate, pursuant to a confidential settlement agreement.

7.   The Applicant's unequivocal withdrawal of the merits signifies a final and binding resolution with regard to the rights and liabilities of the parties in all respects in her case, requiring no pronouncement on the merits but concluding the matter *in toto*. Therefore, dismissal of her case with a view to finality of proceedings is the most appropriate course of action.

8.   The Tribunal commends the parties for their good faith efforts at resolving the case amicably. Such efforts should be encouraged as the amicable resolution of disputes is an essential component of the new system of internal justice, not only

saving valuable resources of the Organization but contributing also to a harmonious working environment and culture.

Conclusion

9.   The Applicant having withdrawn her application pursuant to the terms and conditions of a settlement agreement between the parties, there no longer being any determination for the Tribunal to make, this application is dismissed in its entirety