REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

SPLASH CORPORATION, *Petitioner,*	**CTA *EB* NO. 1541** *(CTA Case No. 8530)*
-*versus*-	Present: **DEL ROSARIO, P.J., CASTAÑEDA, JR. BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** and **MANAHAN, *JJ.***
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** AUG 10 2017 2:56 p.m.

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RESOLUTION

For resolution is petitioner's Motion to Withdraw Petition for Review ("Motion to Withdraw") filed on May 16, 2017, *sans* comment from respondent despite notice.

On November 14, 2016, petitioner filed the instant Petition for Review, thereafter, the Court *En Banc* ordered respondent to file his comment, which respondent failed to do.

On March 15, 2017, the Court *En Banc* resolved to give due course to the Petition for Review and required the parties to submit their respective memoranda.

Instead of filing their respective memoranda, petitioner filed an Urgent Motion to Defer Filing of Memorandum on April 20, 2017, which was granted by the Court *En Banc* in a Resolution dated May 15, 2017; while respondent filed a Motion for Extension of Time to File Memorandum on April 21, 2017, which was granted in a minute resolution by the Court *En Banc* dated April 27, 2017.

On May 16, 2017, petitioner filed the instant Motion to Withdraw praying to withdraw the Petition for Review, stating that pursuant to *Section 3*[1], *Rule 50 of the Rules of Court* withdrawal of the Petition for Review is a matter of right considering that both parties have not yet filed their respective memoranda and that the Petition for Review has not yet been submitted for decision.

The Court *En Banc* notes that other than citing *Section 3, Rule 50 of the Rules of Court,* petitioner did not offer any other explanation or reason for its motion to withdraw. The Court *En Banc* has required respondent to file its Comment on the Petition for Review but it failed to do so. Likewise, the Court *En Banc* has required both parties to file their respective Memoranda, and instead of filing their memoranda, petitioner filed an Urgent Motion to Defer Filing of Memorandum, while respondent filed a Motion for Extension of Time to File Memorandum, thus, the Court *En Banc* has not yet deemed the case for decision or resolution. Thus, the Court *En Banc* resolves to grant petitioner's Motion to Withdraw.

Petitioner is reminded that by withdrawing the Petition for Review, it is deemed to have accepted the decision of the Second Division of the Court of Tax Appeals ("Court in Division"). An appellant who withdraws his appeal must face the consequence of his withdrawal, such as the decision of the court *a quo* becoming final and executory[2].

WHEREFORE, premises considered, petitioner's Motion to Withdraw Petition for Review filed on May 16, 2017, is hereby **GRANTED.** Accordingly, the instant Petition for Review filed on November 14, 2016 is hereby **DISMISSED,** and the case is declared **CLOSED** and **TERMINATED.** No further pleadings or motions shall be entertained herein.

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[1] Section 3, Rule 50 of the Rules of Court provide as follows:

"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."

[2] Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, G.R. No. 181371, March 2, 2011, 644 SCRA 433.

Consequently, the Amended Decision by the Court in Division dated October 12, 2016 is hereby declared **FINAL** and **EXECUTORY.** Let an entry of judgment in this case be made in due course.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice