REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

TAGUM AGRICULTURAL DEVELOPMENT COMPANY, INC.,
Petitioner,

- **versus** -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1914
(CTA Case No. 8917)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, **JR.**,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, *and*
MANAHAN, *JJ.*

Promulgated:
NOV 26 2018
4:17 p.m.

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RESOLUTION

For resolution is petitioner's "**Motion for Leave of Court to Withdraw Petition for Review**" filed on September 26, 2018.

In the said Motion, petitioner prays that the Court give due course to the Motion and that the Petition for Review for VAT Refund and/or issuance of Tax Credit Certificate for the unutilized or unapplied creditable input Value-Added Tax (VAT) for the taxable year 2012 be withdrawn.

In support thereof, petitioner states that with the issuance of Revenue Regulations (RR) No. 1-2017 on January 18, 2017, VAT claims filed and pending prior to the effectivity of RMC No. 54-2014, including that of petitioner, should be decided upon by the Commissioner of Internal Revenue (CIR), instead of being considered as "deemed denied" as a result of the retroactive application of Revenue Memorandum Circular (RMC) No. 54-2014. Thus, under RR No. 1-2017, claims filed prior to RMC No. 54-2014 shall continue to be processed administratively.

Petitioner claims that the present judicial claim was only availed of in accordance with the then existing BIR rules. With the issuance of RR No. 1-2017, an administrative processing of the subject claim becomes, and is still, available to petitioner. Thus, petitioner submits that it would be prudent on its part to exhaust the available administrative remedies.

Petitioner finally posits that petitioner's administrative claim falls squarely under RR No. 1-2017 as it was filed before June 11, 2014 or on February 18, 2014. Hence, the processing of petitioner's administrative claim must be continued.

In the Resolution dated October 4, 2017, the Court required respondent to comment on petitioner's Motion within ten (10) days from receipt of the resolution.

Respondent filed a "Manifestation" on November 5, 2018, interposing no objection to the withdrawal of the Petition for Review.

Under the Revised Rules of the Court of Tax Appeals (RRCTA), the Rules of Court applies suppletorily to the RRCTA[1] and the procedure in the Court *En Banc* or in Division in original and in appealed cases shall be the same as those in petitions for review or appeals before the Court of Appeals.[2] In this regard, Section 3, Rule 50 of the Rules of Court provides:

> "RULE 50
> DISMISSAL OF APPEAL
>
> xxx xxx xxx
>
> Section 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."

In the present case, the Court sees no cogent reason to deny petitioner's Motion for Leave of Court to Withdraw Petition for Review. The Court's approval of the withdrawal of the present Petition for Review is, however, subject to the legal consequence appurtenant thereto. It is settled that withdrawal of an appeal has the effect of rendering the appealed decision final and executory.[3] Thus, as a

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[1] Section 3, Rule 1 of the Revised Rules of the Court of Tax Appeals (RRCTA).
[2] Section 1, Rule 7 of the RRCTA.
[3] *Rodriguez vs. Aguilar*, G.R. No. 159482, August 30, 2005.

consequence of the withdrawal of the Petition for Review filed before the Court *En Banc*, the assailed Decision and Resolution of the Court in Division which denied petitioner's Petition for Review filed therein on jurisdictional ground shall become final and executory.

WHEREFORE, premises considered, petitioner's "**Motion For Leave of Court to Withdraw Petition for Review**" is **GRANTED**. Accordingly, the Petition for Review filed on August 22, 2018 is **DISMISSED**, and the present case is considered **CLOSED** and **TERMINATED**. The Decision dated October 13, 2017 and the Resolution dated August 1, 2018 issued by the Court's Third Division are declared **FINAL** and **EXECUTORY**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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

(On Leave)
ERLINDA P. UY
Associate Justice

(On Leave)
ESPERANZA R. FABON-VICTORINO
Associate Justice

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

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice