REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

HEDCOR SABANGAN, INC., *Petitioner,*	**CTA *EB* NO. 2085** *(CTA Case No. 9276)*
-versus-	Present: **DEL ROSARIO, P.J.,** **CASTAÑEDA, JR.,** **UY,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUN 03 2021 2:12 p.m.

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RESOLUTION

MODESTO-SAN PEDRO, J.:

Before this Court *En Banc* is petitioner's Omnibus Motion, filed on 23 December 2020,[1] with respondent's Opposition (Re: Omnibus Motion), filed on 21 January 2021 ("Comment").[2]

In the Omnibus Motion,[3] petitioner alleges that:

1. The Certificate of Compliance ("COC") is not required to prove that petitioner is engaged in the sale of power generated through renewable sources of energy; it is merely a procedural requirement to certify compliance to government standards;

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[1] Records, pp. 270-286.
[2] *Id.*, p. 290-304.
[3] *Id.*, pp. 271-284.

2. Petitioner's claim for refund is based upon ***Section 108 (B) (7) of the National Internal Revenue Code, as amended ("NIRC"),*** which does not require a COC for a renewable energy generator's entitlement for VAT zero-rating;

3. The Energy Regulatory Commission ("ERC") Guidelines on Issuance of COC allow the operation of a generation plant without a COC for purposes of commissioning; the ERC also provisionally approved petitioner's status as a generation company;

4. A new trial for the purpose of presenting the COC is proper under the circumstances of the case; and

5. Petitioner's unutilized input tax is attributable to zero-rated sales.

In the Comment,[4] respondent counter-argues as follows:

1. Claims for tax refund, which are in the nature of tax exemptions, must be construed in *strictissimi juris* against the claimant, so petitioner must prove that it is entitled to the refund sought;

2. In the Omnibus Motion, petitioner incorrectly argued that a COC is not required to prove that it is engaged in the sale of power generated through renewable sources of energy. The Court in Division correctly denied the input VAT refund on the basis that petitioner's COC was issued only after the alleged zero-rated sales were made;

3. New trial is unavailable in the case at bar considering that the COC, the document which is sought to be presented, is neither newly discovered nor inadvertently omitted due to fraud, accident, mistake, or excusable negligence which merit a reopening of the case. Further, petitioner was already given more than ample opportunity to properly ventilate its case.

We deny the Omnibus Motion. The arguments raised therein are identical to those raised by petitioner in its Petition for Review filed before this Court *En Banc*. Consequently, these have already been sufficiently passed upon, discussed, and judiciously resolved in the Decision, dated 2 December 2020. The Omnibus Motion discloses no cogent reason to disturb the findings and conclusions which this Court made in said Decision. Thus, nothing is left for this Court to do but to deny the same.

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[4] *Id.*, pp. 290-301.

WHEREFORE, the Omnibus Motion is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice