REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Second Division

HEDCOR SIBULAN, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8125

Members:
RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:
NOV 15 2023 9:31 Am

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RESOLUTION

On September 18, 2023, the Court received petitioner's "Motion for Leave to Withdraw Petition for Review" stating that on June 29, 2010, petitioner filed with this Court its Petition for Review for the refund or issuance of a tax credit certificate in the amount of Php29,299,077.37 representing its unutilized input value-added tax (VAT) on purchases of goods and services attributable to its zero-rated sales of generated power for the 2nd quarter of 2008; that in the Answer filed by respondent, he interposed the special and affirmative defense of prematurity, in violation of Section 112 (c) of the National Internal Revenue Code (NIRC) of 1997, as amended; that in the January 31, 2011 Resolution, the Third Division of this Court dismissed the Petition for Review on account of petitioner's failure to effectively clothe the Court with jurisdiction to take cognizance of the case; that the dismissal of the Petition for Review was affirmed in a Resolution dated April 11, 2011; that petitioner filed a Petition for Review before the Court of Tax Appeals *En Banc* (CTA *En Banc*); that the Court *En Banc* affirmed the ruling of the Third Division dismissing the case on the ground of prematurity; that petitioner filed a Petition for Review with the Supreme Court assailing the Decision and Resolution of the CTA *En Banc;* that in the Decision dated September 15, 2021, the Supreme Court granted the Petition for Review, thus reversing and setting aside the CTA *En Banc's* Decision; that after the issuance of the Entry of Judgment, the CTA *En Banc* issued a Resolution remanding the case to the Third Division; that in the Resolution dated March 31, 2023, the Third Division ordered the setting of the Pre-Trial Conference on August 31, 2023; that on August 23, 2023, the Third Division issued a Resolution transferring the instant case to the Second Division and cancelling the August

31, 2023 Pre-Trial Conference; that more than a decade has passed between the filing of the initial Petition for Review on June 29, 2010 and the Resolution remanding the case back to the Court in Division for the presentation of evidence; that upon evaluation of the case, petitioner has found that it no longer has the relevant documentary evidence in its records, nor communication or access to the possible witnesses to be presented in this case; and that petitioner has decided not to pursue the Petition for Review. Hence, petitioner requests leave to withdraw its Petition for Review filed on June 29, 2010, pursuant to Section 3, Rule 1 of the Revised Rules of the Court of Tax Appeals,[1] in relation to Section 3, Rule 50, Revised Rules of Court.[2]

On October 20, 2023, respondent filed his "Comment (on Motion for Leave to Withdraw Petition for Review)" stating that respondent submits to the sound discretion of the Court the resolution of petitioner's "Motion for Leave to Withdraw Petition for Review."

Considering the instant case has not yet been submitted for decision, hence, the Court resolves to **GRANT** petitioner's **"Motion for Leave to Withdraw Petition for Review."**

WHEREFORE, the instant case is deemed closed and terminated.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Leave)

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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[1] SEC. 3. *Applicability of the Rules of Court.* – The Rules of Court in the Philippines shall apply suppletorily to these Rules.

[2] Section 3. *Withdrawal of appeal.* An appeal may be withdrawn as of right a any time before the filing of the appellee's brief. Thereafter, the withdrawal may be allowed in the discretion of the court.