REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* No. 2868** (CTA Case No. 11187)
-versus-	Present:
OPAL PORTFOLIO INVESTMENTS [FISTC-AMC (ASSET MANAGEMENT COMPANY)], INC. Formerly Opal Investments (SPV-AMC), Inc., *Respondent.*	**DEL ROSARIO,** *P.J.*, **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
	Promulgated: SEP 16 2025 4:18 pm.

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RESOLUTION

MANAHAN, *J.*:

Before the Court is the *Motion for Reconsideration (Re: Resolution Promulgated 31 March 2025)* filed by petitioner Commissioner of Internal Revenue ("**CIR**") on April 21, 2025 ("***Motion for Reconsideration***"),[1] with comment filed by respondent Opal Portfolio Investments [FISTC-AMC (Asset Management Company)], Inc. ("**Opal**") on June 16, 2025.[2]

The *Motion for Reconsideration* seeks that the Court reverse and set aside its *Decision* dated March 31, 2025 ("**assailed *Decision***"),[3] which denied the CIR's *Petition for Review* filed on March 4, 2024.[4] The CIR argues as follows:

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[1] *EB* Docket, pp. 90-113.
[2] *Comment (To the CIR's Motion for Reconsideration dated April 16, 2025)*, *EB* Docket, pp. 131-135.
[3] *EB* Docket, pp. 66-88.
[4] Docket, pp. 8-31.

First, the Court erred in ruling that Opal validly protested the Final Assessment Notice and Formal Letter of Demand ("**FAN/FLD**") despite filing its protest with the wrong office. Invoking Revenue Memorandum Circular ("**RMC**") No. 39-2013 and RMC No. 15-2020, the CIR insists that Opal's protest should have been filed with the Deputy Commissioner of Internal Revenue ("**DCIR**") of Operations, instead of with the Assistant Commissioner of Internal Revenue of the Large Taxpayers Service ("**ACIR-LTS**").

Second, on the premise that Opal failed to lodge a valid protest to the FAN/FLD, the CIR argues that the deficiency tax assessment against it has become final, executory, and demandable. Thus, according to the CIR, tax collection through the issuance of a warrant of distraint and/or levy ("**WDL**") proceeded as a matter of course, and not with grave abuse of discretion amounting to lack or excess of jurisdiction. The CIR also contests the Court's exercise of its *certiorari* jurisdiction over the present case.

On the other hand, Opal counterargues that in filing its protest with the ACIR-LTS, it substantially complied with the requirements of Section 228 of the Tax Code and Revenue Regulations No. 18-2013. Opal submits that RMCs are mere internal communications within the offices of the Bureau of Internal Revenue ("**BIR**"), and to impose them on taxpayers would make compliance with the law and regulation unduly difficult. Opal further argues that the issuance of the WDL is arbitrary and in excess of jurisdiction considering that the BIR should have been aware of its pending protest.

We resolve.

Anent the CIR's first argument, the Court affirms its ruling that the filing of the protest with the ACIR-LTS, instead of with the DCIR of Operations, did not constitute an invalid protest which rendered the deficiency tax assessment final, executory, and demandable.

RMC No. No. 39-2013[5] relied upon by the CIR states:

II. CLARIFICATION

[5] Receipt of Protest Letter on Final Assessment Notices and Final Decision on Disputed Assessments.

In order to avoid the conduct of unwarranted re-investigation cases... and **to obviate the premature enforcement of summary remedies** against the concerned taxpayers, **the guidelines for receipt of protest letters** and other similar correspondences are clarified as follows:

1. All letters of protest, requests for reinvestigation /reconsideration and similar correspondences shall only be filed by the taxpayers or their duly authorized representatives, in person or through registered mail with return card, with the Office of the concerned Regional Director (RD), Assistant Commissioner-Large Taxpayers Service (ACIR-LTS) and Assistant Commissioner-Enforcement Service (ACIR-ES), who signed the Preliminary Assessment Notices (PANs), FANs and Formal Letters of Demand, **for proper recording of the protests, and evaluation if the same is in accordance with Section 228 of the NIRC, as implemented by Revenue Regulations No. 12-99**. If the aforesaid procedures are not followed, then the letters of protest, requests for reinvestigation/ reconsideration and similar correspondences shall be considered void and without force and effect.

The abovementioned revenue officials **shall be primarily responsible in ensuring the preparation of a complete/accurate report on all protests** that were filed in their respective offices and the prompt submittal thereof to the Commissioner of Internal Revenue (CIR) every Monday of each week in hard and soft copies...

2. Based on this weekly report, the Office of the CIR **shall create a database** of all letters of protest, requests for reinvestigation/reconsideration... received by the different offices of the Bureau... The said database shall be regularly updated for purposes of providing accurate information on the matter to all concerned officials and employees.

...

4. Any letter of protest, request for reinvestigation/ reconsideration... allegedly filed by any taxpayer **but are not included in the aforementioned database shall be deemed as not officially filed with the Bureau and shall not be used as basis for the grant of any request for reinvestigation/ reconsideration** of any FAN or Final Decision on Disputed Assessment (FDDA) issued against the taxpayer.

> 5. These guidelines and policies shall be strictly observed until such time that a more sophisticated and information technology-driven document receipting and tracking system has been put in place.
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> ...

As aptly noted by Opal, the above-quoted RMC addresses the BIR personnel, particularly those tasked with the receipt of protest letters, requests for reconsideration/reinvestigation, and similar correspondence. It is not in the nature of an administrative regulation implementing the protest procedure under Section 228 of the Tax Code, or a "subordinate legislation,"[6] which is binding on taxpayers and the general public.[7]

In any case, RMC No. 39-2013 belies the CIR's position that the filing of the protest with the ACIR-LTS, instead of with the DCIR of Operations, rendered the protest invalid. As can be gleaned from its text, the ACIR-LTS is among those tasked to receive letters of protest "for proper recording," collation, and inclusion in the CIR's database. Once included in the database, a protest is deemed officially filed. These guidelines patently recognize that a protest may have been validly filed with another BIR office; otherwise, it would be superfluous to set up a centralized database.

The statutory right of taxpayers to protest an assessment cannot be curtailed by the gaps and ambiguities in the BIR's internal system. It should be emphasized that in the present case, it was the ACIR-LTS who authorized the audit and examination of Opal. It was the ACIR-LTS who issued the Letter of Authority and the Preliminary Assessment Notice ("**PAN**"), and although the signatory in the FLD/FAN is the DCIR of Operations, the header of the FLD/FAN itself indicates "Large Taxpayers Service."[8] Opal therefore cannot be faulted for reasonably filing its protest with the ACIR-LTS, especially since the BIR's own guidelines permit the filing thereof "with the Office of the concerned Regional Director (RD), *Assistant Commissioner-Large Taxpayers Service (ACIR-LTS)* and Assistant Commissioner-Enforcement Service (ACIR-ES), *who*

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[6] *Sobrejuanite-Flores v. Pilando*, G.R. No. 251816, November 23, 2021 [Per J. Lopez, *En Banc*]. "[S]ubordinate legislation allows administrative bodies to implement the broad policies laid down in a statute by filling in the details which the legislature may not have the opportunity or competence to provide."
[7] *Cawad v. Abad*, G.R. No. 207145, July 28, 2015 [Per J. Peralta, *En Banc*].
[8] Division Docket, pp. 38.

signed the Preliminary Assessment Notices (PANs), FANs and Formal Letters of Demand..."

Similarly, the CIR cannot invoke RMC No. 15-2020[9] as it is also addressed to BIR personnel, not to taxpayers and the general public. Notably, RMC No. 15-2020 prescribes the manner on how concerned taxpayers *shall be informed* of the procedures in responding to the issuance of deficiency tax assessments. RMC No. 15-2020 does not in any way implement Section 228 of the Tax Code regarding the protest of tax assessments, nor does it provide for the jurisdiction of BIR officials to act on protests. Nowhere from the text of RMC No. 15-2020 can it be concluded that the BIR official who signed the FAN/FLD has the exclusive jurisdiction to act on the protest.

Having established the pendency of Opal's protest, the CIR's second argument that the deficiency tax assessment has become final, executory, and demandable necessarily falls. The Court thus affirms its conclusion in the assailed *Decision*:

> ...in the present case, there is still a pending appeal with the CIR when the assailed warrants were issued. Applying *LRTA*, the Court is constrained to declare the assailed warrants void for not being based on a demandable assessment and seeking to collect taxes which are not yet delinquent.
>
> Due process demands that tax collection be preceded by a demandable assessment. This entails that the taxpayer be given full opportunity to be informed of the factual and legal bases of the assessment, to protest and have its evidence considered, and to avail of the right to appeal in the manner and within the period prescribed by law. Without a demandable assessment resulting in delinquent taxes, the BIR cannot resort to summary collection remedies. Such act of tax collection is not only premature and without legal basis; it is also violative of the due process requirements under Section 228 of the Tax Code and pertinent regulations.

ACCORDINGLY, the *Motion for Reconsideration (Re: Resolution Promulgated 31 March 2025)* filed by petitioner on April 21, 2025 is **DENIED** for lack of merit.

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[9] Prescribing the Manner on How Concerned Taxpayers Shall Be Informed of the Procedures in Responding to the Issuance of Deficiency Tax Assessments. *4n*

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice