

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

SIRAWAI PLYWOOD AND
LUMBER CORPORATION,
Petitioner,

CTA Case No. 10810

Members:

REYES-FAJARDO, Chairperson, and,
ANGELES, II.

- versus -

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated:

x-----x

RESOLUTION

REYES-FAJARDO, J.:

By Decision¹ dated March 31, 2026, it was found that petitioner received the Bureau of Internal Revenue (BIR)'s Formal Letter of Demand and Final Assessment Notices (FLD/FAN), through Mr. Crisostomo Lenon on June 7, 2021. Counting 30 days from June 7, 2021, petitioner had until July 7, 2021 to file an administrative protest thereon. Therefore, petitioner's *belated* filing of its administrative protest on the FLD/FAN on July 9, 2021 led to the disposal of CTA Case No. 10810, as follows:

ACCORDINGLY, We RESOLVE to:

- a. **DENY** the Petition for Review dated March 15, 2022, for lack of merit;
- b. **DIRECT** Sirawai Plywood and Lumber Corporation to **PAY** the Bureau of Internal Revenue, the deficiency internal revenue taxes for Taxable Year 2017, set forth in the Formal Letter of

¹ Docket, pp. 530-546.

Demand issued on June 4, 2021, and its corresponding Final Assessment Notices; and,

- c. **UPHOLD** the Warrant of Distraint and/or Levy, and Warrants of Garnishment all dated December 24, 2021, implementing the collection of the assessed internal revenue taxes on Sirawai Plywood and Lumber Corporation, for Taxable Year 2017.

SO ORDERED.

On April 28, 2026, petitioner filed its Motion for Reconsideration (Re: Decision dated 31 March 2026),² seeking the reversal of the Decision dated March 31, 2026.

Petitioner insists that it timely filed its administrative protest on the BIR's FLD on July 9, 2021. Specifically, considering that the City of Davao was placed under Modified Enhanced Community Quarantine (MECQ) due to COVID 19 Pandemic, and that Revenue Memorandum Circular (RMC) Nos. 45-2021³ and 92-2021⁴ stretched the period to file, among others, an administrative protest on the formal assessment, it timely filed its administrative protest on the BIR's FLD on July 9, 2021.

Equipped with the foregoing belief, petitioner then asserts that the BIR's formal assessment covering Taxable Year (TY) 2017 is null because: (1) the BIR failed to observe Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended because it did not receive the Final Assessment Notice (FAN) relative to said year; (2) the BIR's right to assess it for 2017 deficiency internal revenue taxes is barred by prescription; (3) the BIR's FLD lacks a definite amount of tax liabilities, citing *Commissioner of Internal Revenue v. Fitness by Design, Inc. (FDI)*⁵ as authority; and (4) the BIR's FLD is undated.

² *Id.* at pp. 547-558.

³ SUBJECT: Extension of the Deadline for Filing of Position Papers, Replies, Protests, Documents and Other Similar Letters in Relation to Ongoing BIR Audit Investigations.

⁴ SUBJECT: Extension of the Deadline for Filing of Position Papers, Replies, Protests, Documents and Other Similar Letters and Correspondences in Relation to the Ongoing BIR Audit Investigation and Filing of VAT Refund with the VAT Credit Audit Division (VCAD) Due to the Declaration of Enhanced Community Quarantine (ECQ) and Modified ECQ (MECQ) in the National Capital Region (NCR) and Other Areas of the Country.

⁵ G.R. No. 215957, November 9, 2016.

On June 8, 2026, respondent filed its Comment/Opposition (Re: Petitioner's Motion for Reconsideration of Decision dated 31 March 2026),⁶ riposting that petitioner's points in its Motion were already tackled, and found wanting in the Decision dated March 31, 2026.

The Motion lacks merit.

First. Petitioner belatedly filed its administrative protest on July 9, 2021; hence, the BIR's formal assessment (FLD/FAN) became final, executory, and demandable.

Petitioner invokes RMC Nos. 45-2021⁷ and 92-2021⁸ to rationalize the belated filing of its administrative protest on the BIR's FLD. According to petitioner, these issuances extended the period to file an administrative protest on the formal assessment, leading to the timely filing thereof on July 9, 2021.

This is illusory.

For one, RMC No. 45-2021 was issued "...in order to provide relief to taxpayers, in relation to the current surge in COVID-19 cases prompting the government to impose Enhanced Community Quarantine (ECQ) in NCR Plus which includes Metro Manila, Laguna, Cavite, Bulacan, and Rizal thereby restricting movement within these areas. Thus, the deadline for filing of the following letters and documents falling due on April 5, 2021 and during the ECQ period, including extensions thereof, and for filing of VAT refund with VCAD, for taxpayers registered with RDOs in NCR Plus areas and other registered taxpayers outside NCR Plus who have transactions with any BIR office within NCR Plus[.]"

⁶ Docket, pp. 564-568.

⁷ SUBJECT: Extension of the Deadline for Filing of Position Papers, Replies, Protests, Documents and Other Similar Letters in Relation to Ongoing BIR Audit Investigations.

⁸ SUBJECT: Extension of the Deadline for Filing of Position Papers, Replies, Protests, Documents and Other Similar Letters and Correspondences in Relation to the Ongoing BIR Audit Investigation and Filing of VAT Refund with the VAT Credit Audit Division (VCAD) Due to the Declaration of Enhanced Community Quarantine (ECQ) and Modified ECQ (MECQ) in the National Capital Region (NCR) and Other Areas of the Country.

Petitioner’s administrative protest⁹ was addressed to and received by the BIR Large Taxpayers Division **City of Davao**. City of Davao is not one of the places embraced in NCR Plus. Therefore, RMC No. 45-2021 finds no application.

For another, RMC No. 92-2021 indeed extended the deadline for the filing of, among others, administrative protest on the formal assessment in “... the National Capital Region (NCR) and other areas of the country[.]” The City of Davao is included therein.

Yet, petitioner’s insistence that “[RMC No. 92-2021] formally extended the deadlines for filing protests (responses to FAN/FLD) that fell within **any period** of ECQ or MECQ...”¹⁰ is disingenuous, if not, misleading.

To be exact, RMC No. 92-2021 covers only deadlines **falling due on August 6, 2021 and** during the ECQ and MECQ period. The pertinent portion of RMC No. 92-2021, as cited in page 3 of petitioner’s Motion, confirmed:

Thus, the deadline for filing of the following papers, letters, and documents falling due on August 6, 2021 and during the ECQ and MECQ period, including extensions thereof, for taxpayers registered with the Revenue District Offices (RDOs) in areas covered by the ECQ and MECQ declaration or for registered taxpayers filing the aforementioned papers, letters, and documents with the appropriate BIR Offices located in areas covered by the ECQ and MECQ declarations is hereby extended as follows:

...

Letter/Correspondence	Extended Deadline
...	...
Protest Letter in Response to the Final Assessment Notice/Formal Letter of Demand (FAN/FLD)	30 days from lifting of the ECQ and/or MECQ

⁹ BIR Records (Exhibit “R-12”), pp. 685-688.
¹⁰ Par. 9, petitioner’s Motion for Reconsideration. Docket, p. 549.

As found in the questioned Decision, petitioner received the BIR's FLD on June 7, 2021.¹¹ Counting 30 days therefrom, the deadline for the filing of its administrative protest fell on July 7, 2021. July 7, 2021 is **not** covered by the required period, *i.e.*, August 6, 2021, in RMC No. 92-2021. *Ergo*, RMC No. 92-2021, too, finds no application on petitioner's deadline of filing of administrative protest.

Besides, to apply RMC No. 92-2021 issued on August 6, 2021 on the deadline for the filing of petitioner's administrative protest on July 7, 2021 offends the dictum that statutes and administrative issuances are prospective, rather than retroactive, in application. *Republic v. Larrazabal, Sr., et al.*¹² elucidated the *rationale* therefor in this wise:

It is a well-entrenched principle that statutes, including administrative rules and regulations, operate prospectively unless the legislative intent to the contrary is manifest by express terms or by necessary implication because the retroactive application of a law usually divests rights that have already become vested. This is based on the Latin maxim: *Lex prospicit non respicit* (the law looks forward, not backward).

Second. Petitioner still disclaims receipt of the Final Assessment Notices (FAN) corresponding to the deficiency internal revenue taxes covering TY 2017. However, as discoursed in pages 10 to 15 of the questioned Decision, petitioner **received** said FAN, likewise on June 7, 2021, through Lenon. The justifications therefor follow.

One. Lenon received the NIC served by the BIR. Petitioner acted on the NIC received by Lenon. By these observations, petitioner left the impression that Lenon was armed with authority to receive BIR notices on its behalf. Thus, petitioner cannot now claim that Lenon was *not* authorized to receive the FAN served by the BIR. *Factory Automation and Instrumentation Corp. v. Commissioner of Internal Revenue (FAIC)*¹³ was cited in support of the foregoing conclusion.

Petitioner views the usage of *FAIC* as flawed, contending that in *FAIC* the BIR notice was served to the taxpayer's address, whereas

¹¹ Page 10, Decision dated March 31, 2026. *Id.* at p. 539.

¹² G.R. No. 204530, July 26, 2017.

¹³ G.R. No. 236789, March 27, 2023.

here, the BIR served the FAN in Davao City, which is not its registered address.

Petitioner missed the point.

Again, in *FAIC*, therein taxpayer disclaimed receipt of the FLD/FAN served by the BIR, because the person who received the same, *i.e.*, a certain Irene Masula (Masula), lacks the requisite authority to do so. However, it was found that the PAN was received by Masula, and that said taxpayer was able to protest the PAN. In ruling that there was valid service, and receipt by such taxpayer of the FLD/FAN, through Masula, *FAIC* held:

[The taxpayer] did not contest the authority of Irene Masula to receive the PAN. It cannot now claim that the same person is unauthorized to receive the FAN, when it acted on the PAN that Irene Masula previously received.

Indeed, *FAIC* is plain in that when a person received a BIR notice, and the taxpayer acted on it, the latter cannot claim that said person lacks the necessary authority to receive other BIR notices. *FAIC* did not even consider the place of service as being indicative in reaching the foregoing conclusion. Otherwise stated, the gauge provided by *FAIC* is the taxpayer's acts in clothing a person with authority to receive BIR notices, and *not* the place of service of the BIR notices.

Petitioner acted on the NIC received by Lenon. Consistent with *FAIC*, petitioner cannot claim that Lenon lacks the authority to receive the BIR's FAN.¹⁴

Parenthetically, Subsection 3.1.6 of Revenue Regulations (RR) No. 18-2013 states that BIR notices, such as the FLD/FAN may be personally served to the taxpayer wherever said taxpayer may be found:

3.1.6 Modes of Service. — The notice (PAN/FLD/FAN/FDDA) to the taxpayer herein required may be served by the Commissioner or his duly authorized representative through the following modes:

¹⁴ Pages 10-13, Decision dated March 31, 2026. Docket, pp. 539-542.

(i) The notice shall be served through personal service by **delivering personally a copy thereof to the party** at his registered or known address **or wherever he may be found**. A known address shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.¹⁵

Petitioner held out Lenon as being authorized to receive BIR notices on its behalf. *Ergo*, the BIR properly served the FLD/FAN to Lenon, notwithstanding that the latter is in Davao City, and *not* in petitioner's registered address per subsection 3.1.6 of RR No. 18-2013.

Two. Petitioner's silence in its administrative protest on the BIR's FLD as to the non-receipt of the FAN pertaining thereto means it received the FAN,¹⁶ following the evidentiary rule on admission by silence under Section 33, Rule 130 of the Rules of Court, as amended, as construed in *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*¹⁷

Three. The FAN presumably came together with FLD, both received by Lenon, per Section 3(x), Rule 131 of the Rules of Court, as amended. Petitioner did *not* adduce evidence to overthrow the presumption. Therefore, said disputable presumption is sufficient to further strengthen the conclusion that petitioner received a complete formal assessment (FLD and FAN) from the BIR.¹⁸

Finally. Considering that petitioner *failed* to validly register an administrative protest on the BIR's complete formal assessment (FLD and FAN), the same became final, executory, and demandable. For this reason, petitioner's defenses, attempting to tarnish the conclusiveness and immutability thereof should be disregarded outright.¹⁹

ACCORDINGLY, petitioner's Motion for Reconsideration (Re: Decision dated 31 March 2026) is **DENIED**, for lack of merit. The Decision dated March 31, 2026 is **AFFIRMED**.

¹⁵ Boldfacing ours.

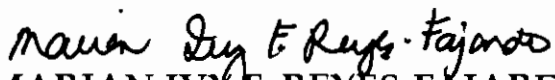
¹⁶ Pages 13-14, Decision dated March 31, 2026. *Id.* at pp. 542-543.

¹⁷ G.R. No. 225809, March 17, 2021.

¹⁸ Pages 14-15, Decision dated March 31, 2026. *Id.* at pp. 543-544.

¹⁹ Pages 15-16, Decision dated March 31, 2026. *Id.* at pp. 544-545.

SO ORDERED.


MARIAN IVY F. REYES-FAJARDO
Associate Justice

I CONCUR:


HENRY S. ANGELES
Associate Justice