REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

E-POWER SECURITY AND INVESTIGATION SERVICES, INC.,	**CTA *EB* NO. 2747** (CTA Case No. 10143)
Petitioner,	*Present:*
-versus-	**DEL ROSARIO**, *P.J.*, **RINGPIS-LIBAN**, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, *and* **ANGELES**, *JJ.*
HON. CAESAR R. DULAY - IN HIS CAPACITY AS THE COMMISSIONER OF INTERNAL REVENUE,	Promulgated:
Respondent.	SEP 08 2025, 11:03 a.m.

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RESOLUTION

CUI-DAVID, J.:

This resolves petitioner's *Motion for Reconsideration (Re: Decision dated 21 February 2025)*, filed on March 17, 2025, with respondent's *Comment (Re: Petitioner's Motion for Reconsideration dated March 17, 2025)*, filed on April 21, 2025.

Petitioner prays that the Court reconsider and set aside its Decision dated February 21, 2025, which disposed of the case as follows:

> **WHEREFORE**, the *Petition for Review (Re: Decision dated 21 November 2022 and Resolution dated 16 March 2023)* is **DENIED** for lack of merit. Accordingly, the *Decision* dated November 21, 2022, and the *Resolution* dated March 16, 2023, are **AFFIRMED**.

SO ORDERED.

Petitioner contends that the Court *En Banc* erred in affirming *in toto* the findings of the Court in Division. Specifically, petitioner maintains that the Formal Letter of Demand (FLD) and assessment notices were not validly served on an authorized representative on December 17, 2018. Consequently, petitioner asserts that the burden of proving valid service rests with the respondent.

Petitioner asserts that respondent failed to present any testimonial evidence to support the claim that the FLD and assessment notices were validly served. In particular, the revenue officer who allegedly served the FLD was not presented as a witness, and no evidence was offered to establish the authority of Mr. Herdel Dela Cruz (Mr. Dela Cruz) to receive the documents on petitioner's behalf.

Petitioner further argues that the conclusion that the FLD and assessment notices became final and executory due to its failure to file a protest within the prescribed thirty (30)-day period lacks evidentiary support. It insists that in the absence of proof of proper service, the Court erred in ruling that petitioner had only until January 16, 2019, to file a protest.

In response, respondent asserts that the FLD and assessment notices were properly served at petitioner's registered address and received by an authorized representative. Respondent emphasizes that petitioner's own president and witness, Retired Brigadier General Emiliano D. Templo, testified under oath that Mr. Dela Cruz routinely received external communications and was the person who received the FLD. Respondent also reiterates the findings of both the Court in Division and the Court *En Banc* that petitioner failed to file a protest within the required 30-day period, rendering the assessment final.

The motion lacks merit.

Petitioner's claim that respondent failed to prove valid service is unpersuasive. The records clearly show that the FLD and assessment notices were received on December 17, 2018, by Mr. Dela Cruz,[1] who was identified by petitioner's own

[1] Division Docket, Vol. III, pp. 1503–1508, Exhibit "R-8".

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witness as the "records custodian."[2] Petitioner's president also confirmed under oath that Mr. Dela Cruz, regularly handled official company documents and was authorized to receive external communications in the normal course of business.[3]

Moreover, the absence of testimony from the revenue officer who personally served the FLD does not negate the finding of valid service. Petitioner acknowledged receipt of the FLD and confirmed the authority of the person who received it.[4] The regularity of the company's communication procedures, as admitted by petitioner's own officer, suffices to establish proper service.

Even assuming arguendo, that the FLD and assessment notices were received only on December 27, 2018, as alleged in petitioner's protest dated April 12, 2019,[5] the protest would still have been filed late, since the 30-day reglementary period would have expired on January 26, 2019. Thus, the protest remains fatally defective for being filed out of time.

It is well-settled that failure to file a valid administrative protest within the 30-day period prescribed under Section 228 of the National Internal Revenue Code of 1997, as amended, renders the assessment final, executory, and demandable, thereby divesting the Court of Tax Appeals of jurisdiction to rule on its validity or correctness.

In fine, the Court *En Banc* finds no reversible error in its Decision dated February 21, 2025. The FLD and assessment notices were validly served, and petitioner failed to file a timely administrative protest. This procedural lapse is jurisdictional and fatal to petitioner's case.

WHEREFORE, petitioner's *Motion for Reconsideration (Re: Decision dated 21 February 2025)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

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2 Division Docket, Vol. II, p. 395, Exhibit "P-42".
3 *Id.*; Transcript of Stenographic Notes (TSN), February 23, 2021, pp. 20–21.
4 TSN, February 23, 2021, pp. 20–21.
5 Division Docket, Vol. II, pp. 477–479, Exhibit "P-15"; Division Docket, Vol. III, pp. 1519–1521, Exhibit "R-14".

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WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
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

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice