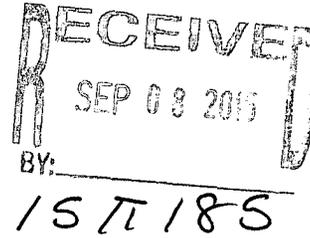


**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

AHMED INC., )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS DEPARTMENT OF REVENUE, )  
 )  
 Defendant. )

No.



**PETITION**

Petitioner, Ahmed Inc. (“Petitioner”), by and through its attorneys, The Law Office of James E. Dickett, Ltd, complains of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

**PARTIES**

1. Petitioner is a corporation formerly located at 800 West Golf Road, Schaumburg, Illinois, 60193, and can be reached at 773-524-8825.
2. Petitioner is represented by The Law Office of James E. Dickett, Ltd. attorney James E. Dickett, located at 600 Hillgrove Avenue, Suite 1, Western Springs, Illinois, 60558 and can be reached at 708-784-3200 or [jdickett@aol.com](mailto:jdickett@aol.com).
3. Petitioner’s Account ID is 3904-1751.
4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement of Illinois tax laws. 20 ILCS 5/5-15.

## **NOTICE**

5. On April 26, 2013, the Department issued a Notice of Tax Liability letter to Petitioner for \$525,056 in tax plus penalties and interest. The Notice is attached hereto as Exhibit 1, and the Department's late discretionary hearing approval letter dated July 17, 2015 is attached hereto as Exhibit 2.

## **JURISDICTION**

6. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.

7. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act because Petitioner obtained a late discretionary hearing from the Department dated July 17, 2015 (Exhibit 2), and then timely filed this Petition within 60 days of the Department's letter granting the late discretionary hearing for Petitioner.

## **BACKGROUND**

8. Petitioner is a corporation that formerly operated as a petroleum retailer.

9. The Department audited Petitioner for the sales tax periods July 1, 2009 to March 31, 2012.

10. The Department calculated the audit liability by estimating the corporation's sales based on marking-up the corporation's purchases by industry average prices found in a book at the library.

11. However, the Department made a substantial (over \$350,000 in tax) math error in computing the audit liability regarding the estimated mini-mart high rate sales.

12. The Department's audit liability is also overstated because it does not account for any low rate sales or tax-exempt sales like LINK, lottery, and newspapers

## COUNT I

### Defendant's audit methodology overstates Petitioner's liability.

13. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 12, inclusive, hereinabove.

14. On audit, the Department estimated the audit liability by marking-up the corporation's purchases, but the Department made at least one huge math error as well as several other audit methodology errors.

15. By utilizing this audit methodology, the Defendant drastically and unreasonably inflated Petitioner's audit liability.

**WHEREFORE**, Petitioner prays that the Tribunal enter an order that:

- (a) enters judgment in favor of Petitioner and against the Defendant and cancels the Notice;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notice; and
- (c) grants such further relief as the Tribunal deems appropriate.

## COUNT II

### All penalties should be abated based on reasonable cause.

16. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 15, inclusive, hereinabove.

17. In its Notice, the Department assessed late and negligence penalties.

18. Illinois law provides that neither late penalties nor negligence penalties apply if a taxpayer shows that its failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

19. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine and pay its proper tax liability in a timely fashion. 86 Ill. Admin. Code 700.400(b).

20. A taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code 700.400(b).

21. Petitioner exercised ordinary business care and prudence when it reasonably determined its tax liability during the audit period based on its books and records (and did not use estimates).

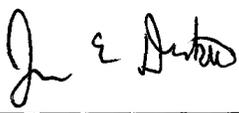
**WHEREFORE**, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that all penalties should be fully abated based on reasonable cause; and
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way collect the amount of penalties due on the Notice.

Thank you for considering this Petition.

Respectfully submitted,

Ahmed Inc.,  
Petitioner

By:   
One of Petitioner's Attorneys  
Date: 9-4-15

James E. Dickett  
The Law Office of James E. Dickett, Ltd.  
600 Hillgrove Avenue, Suite 1  
Western Springs, IL 60558  
708-784-3200 (fax 3201)  
[jdickett@aol.com](mailto:jdickett@aol.com)

**Notice of Tax Liability**  
for Form EDA-105-R, ROT Audit Report

Exhibit 1



April 26, 2013



Letter ID: CNXXX21259X6X167

Account ID: 3904-1751

#BWNKMGV  
#CNXX X212 59X6 X167#  
AHMED INC  
ATTN: ILYAS PATEL  
4916 N DRAKE AVE  
CHICAGO IL 60625-5616



We have audited your account for the reporting periods July 01, 2009, through March 31, 2012. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	525,056.00	0.00	525,056.00
Late Payment Penalty Increase	105,011.00	0.00	105,011.00
Negligence Penalty	105,011.00	0.00	105,011.00
Late Filing Penalty Increase	1,000.00	0.00	1,000.00
Interest	23,973.93	0.00	23,973.93
<b>Assessment Total</b>	<b>\$760,051.93</b>	<b>\$0.00</b>	<b>\$760,051.93</b>

If you do not agree, you may file a protest and request an administrative hearing within 60 days of the date of this notice, which is **June 25, 2013**. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. If you do not file a protest within the time allowed, you will waive your right to a hearing and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.

If you have questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m. Our address and telephone number are listed below.

BUREAU OF AUDITS  
TECHNICAL REVIEW SECTION  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19012  
SPRINGFIELD IL 62794-9012

217 785-6579



Exhibit 2

**Illinois Department of Revenue**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
Willard Ice Building  
101 West Jefferson Street – Level 5SW  
Springfield, IL 62702  
(217)782-6995

July 17, 2015

James E. Dickett  
Law Office of James E. Dickett Ltd.  
600 Hillgrove Avenue, Suite 1  
Western Springs, IL 60558

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**  
Ahmed Inc.  
Account ID: 3904-1751  
Notice of Tax Liability (NTL)  
Letter ID: CNXXX21259X6X167, dated April 26, 2013

Dear Mr. Dickett:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing for Ahmed Inc. regarding the above NTL. Based on the information provided in your request, I believe that it is appropriate to grant your request for a late discretionary for Ahmed Inc. regarding the above NTL.

The amount of liability at issue for this protest exceeds the statutory amount (\$15,000, exclusive of penalties and interest or \$15,000 for notices that involve only penalties and interest) for which the Department has jurisdiction for late discretionary hearings that are granted on or after January 1, 2014. For late discretionary hearings that are granted on or after January 1, 2014 and that exceed the statutory amount, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.*

The Tax Tribunal's website ([www.illinois.gov/taxtribunal](http://www.illinois.gov/taxtribunal)) contains rules that include guidance on filing requirements and contact information for the Tax Tribunal. **The Tax Tribunal's rules provide that, when a late discretionary hearing is granted and the protest meets the statutory amount, the taxpayer shall file a petition with the Tax Tribunal within 60 days and shall attach a copy of the letter granting the late discretionary hearing.** See Subsection (a)(5) of Section 5000.310 of the Tax Tribunal's

rules. Please note that the Tax Tribunal has different requirements than the Department for filing protests, including the payment of filing fees and the filing of a petition in the form required by the Tax Tribunal.

I recommend that you review the information provided on the Tax Tribunal's website and contact them if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Charlton". The signature is fluid and cursive, with a long horizontal stroke at the end.

Terry D. Charlton  
Chief Administrative Law Judge  
Illinois Department of Revenue

TDC:vs