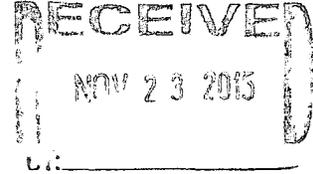


**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

MAAY TOBACCO INC.,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Respondent.)

No.



15 TV 238

PETITION

Petitioner, Maay Tobacco 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 an corporation that can be contacted at 309 Claridge Circle, Bolingbrook, Illinois, 60440, and can be reached at 630-865-7178.
2. Petitioner is represented by 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.
3. Petitioner’s Account ID number is 4014-5921.
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 October 17, 2013, the Department issued two (2) Notice of Tax Liability letters (“Notices”) to the Petitioner that became final assessments in December 2013 for the tax periods of May 2013 and June 2013 only. The tax assessed on both Notices was \$24,647. Petitioner never received copies of the Notices because the business closed in June 2013.

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 October 22, 2015, and then timely filed this Petition within 60 days of the Department’s letter granting the late discretionary hearing for Petitioner (see Exhibit 1 for copy of 10/22/15 letter granting late discretionary hearing; see also Exhibit 2 for 2/6/15 Collection Action letter containing the two months of the Notices (May 2013 and June 2013)).

BACKGROUND

8. Petitioner is a corporation that closed in the middle of June 2013 and failed to file or pay its last two monthly sales tax returns for May 2013 and June 2013.

9. The Department estimated Petitioner’s sales tax liability for May 2013 and June 2013 and issued the Notices to Petitioner’s closed address so they were never received, but the Department’s estimates are overstated in both months (especially June 2013 because the business closed in the middle of the month).

COUNT I

Defendant's audit methodology overstates Petitioner's liability.

10. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 9, inclusive, hereinabove.

11. The Department assessed the tax liabilities contained in the Notices based estimates which are overstated especially in June 2013.

12. By applying such estimates, the Department drastically and unreasonable inflated Petitioner's sales tax liability for May 2013 and June 2013.

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

- (a) enters judgment in favor of Petitioner and against the Defendants and cancels the Notices;
- (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 Notices;
- (c) grants such further relief as the Tribunal deems appropriate.

COUNT II

All penalties should be abated based on reasonable cause.

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

14. In its Notices, the Department assessed penalties.

15. Illinois law provides that penalties do not apply if a taxpayer shows that its failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

16. 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 its proper tax liability and to pay its proper tax liability in a timely fashion, and 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).

17. Petitioner exercised ordinary business care and prudence when it reasonably determined its business income liability during the audit periods and clearly did not use the Department's over-estimated sales tax assessment amounts.

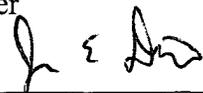
WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that all penalties should be fully abated based on reasonable cause;
- (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 Notices; and
- (c) grants such further relief as the Tribunal deems appropriate.

Thank you for considering this Petition.

Respectfully submitted,

Maay Tobacco Inc.
Petitioner

By: 
One of Petitioner's Attorneys

Date: 11/20/15

James E. Dickett
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)



Exhibit 1

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

October 22, 2015

Dharna Shah
SK Tax Associates
951 Golf Road
Schaumburg, IL 60194

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**
Maay Tobacco Inc.
Account ID: 4014-5921
(2) Notices of Tax Liability (NTLs) dated October 17, 2013
Letter ID: CNXXX153X3X33287
Letter ID: CNXXXX9934324161

Dear Ms. Shah:

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

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) 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,



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

TDC

cc: Maay Tobacoo Inc.
3005 Kirchoff Rd.
Rolling Meadows, IL 60008-1817

Collection Action
Assessment and Notice of Intent

Exhibit 2



February 6, 2015



Letter ID: L0248281568

MIR YADULLAHI
 309 CLARIDGE CIR
 BOLINGBROOK IL 60440-6186

Taxpayer ID: XXX-XX-5711
 NPL Penalty ID: 1081213



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

Sales/Use Tax & E911 Surcharge

Account ID: 4014-5921

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2012	20,583.00	925.03	-	-	(21,303.57)	204.46
31-Jan-2013	19,393.00	759.47	-	-	(19,393.08)	759.39
28-Feb-2013	18,513.00	784.79	-	-	(18,513.08)	784.71
31-Mar-2013	20,310.00	891.05	-	-	(20,309.64)	891.41
30-Apr-2013	14,983.00	264.72	8.11	-	(14,721.04)	534.79
31-May-2013	24,647.00	3,307.64	815.25	-	-	28,769.89
30-Jun-2013	24,647.00	3,357.64	815.25	-	-	28,819.89

NTL'S
closed on 6/13

147
less prior wage garnishment

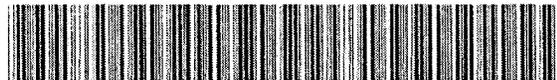
IDOR-SP-NPL (N-03-07)

Retain this portion for your records

Fold and detach on perforation. Return bottom portion with your payment.

Collection Action

(R-12/08) (136)



Letter ID: L0248281568
 MIR YADULLAHI

Total amount due: \$60,764.54
 Write the amount you are paying below.

Mail this voucher and your payment to:
 ILLINOIS DEPARTMENT OF REVENUE
 PO BOX 19035
 SPRINGFIELD IL 62794-9035

\$ _____
 Write your Account ID on your check.