

ILLINOIS INDEPENDENT
TAX TRIBUNAL

JAMAL CHAUDHARY,)	
Petitioner,)	
)	
v.)	14 TT 183
)	
ILLINOIS DEPARTMENT)	Judge BAROV
OF REVENUE,)	
Respondent.)	

FINAL PRETRIAL ORDER

This matter having come before the court at a pretrial conference, and AKRAM ZANAYED having appeared as counsel for Petitioner and DANIEL EDELSTEIN having appeared as counsel for the Department, the following actions were taken:

- (1). This matter involves Sales and Use tax in the amount of \$35,056.00 plus applicable penalties and interest and jurisdiction is invoked under Sections 1-45 and 1-50 of the Illinois Independent Tax Tribunal Act of 2012. Jurisdiction is not disputed.
- (2). The following stipulations and statements were submitted and are attached to and made part of this Order:
 - (a) Statement of Uncontested Facts:
 - i. Petitioner is an individual who, during the periods of January 1, 2010 through June 30, 2013 (the "Periods"), was doing business as First Stop Mart ("First Stop");
 - ii. Petitioner filed Illinois sales and use tax returns with the Department for all of the Periods;

- iii. The Department conducted a sales and use tax audit of Petitioner, doing business as First Stop, for the Periods (the "Audit")
- iv. Petitioner was doing business as First Stop, a convenience store and gas station located at 600 Logan Ave., Belvidere, IL 61008, during the periods of January and February 2010;
- v. Petitioner was doing business as First Stop, another convenience store and gas station located at 171 S. Appleton Rd., Belvidere, IL 61008, during the Periods;
- vi. For the periods of January 1, 2007 through December 31, 2009 (the "Prior Periods"), the Department conducted a sales and use tax audit of Petitioner, doing business as First Stop (the "Prior Audit");
- vii. The liabilities assessed against Petitioner in the Prior Audit were finalized and are not being contested by Petitioner in this matter;
- viii. In such Prior Audit, Petitioner identified twelve of the suppliers of First Stop during the Prior Periods;
- ix. Petitioner provided the Department with federal Forms 1040, for the years ending December 31, 2010 and 2012, but Schedule C, Profit or Loss from Business, was not included with such Forms;
- x. Petitioner has not provided the Department with z-tapes from the registers used in the business locations of First Stop during the Periods; and,
- xi. The Audit used the results of the Prior Audit to calculate the projected sales in the Audit and, for interest-calculation purposes only, this projection showed that Petitioner's Sales and Use tax liability for the ten periods of October 2011, May, June, August, and October through December 2012, and January, April, and May 2013 (the "Ten Months") was less than the corresponding liability provided on Petitioner's Illinois sales and use tax returns for the Ten Months.

(b) Statement of Uncontested Points of Law:

- i. Taxpayers subject to the Illinois' Retailers' Occupation Tax Act (35 ILCS 120/1, *et seq.*) and the Use Tax Act (35 ILCS 105/1, *et seq.*) are required to maintain complete books and records pursuant to 35 ILCS 120/7 and 105/11, and 86 Ill. Adm. Code 130.801 and

150.1301; and,

- ii. Profit or loss from First Stop, as Petitioner's sole proprietorship, would be reported, for federal income tax purposes, on a Schedule C, Profit or Loss from Business, filed with Petitioner's federal Form 1040 for each year during the Periods in which Petitioner was doing business as First Stop.

(c) a schedule by each party of exhibits (all exhibits shall be marked for identification before the hearing), including documents, summaries, charts, and other items expected to be offered into evidence, which include the following:

Petitioner's Exhibits:

Exhibit Number	Date	Description	Relevance	Objection
1	August 27, 2014	Notice of Tax Liability		None
2	October 3, 2014	Petition		Hearsay, with respect to the allegations in Paragraphs 1, 2, 9, 10, 12, 13, and 14
3	November 5, 2014	Department Answer		None
4	Various	Selected Documents of Audit File		Vague and ambiguous, thus preventing the Department from adequately identifying, locating or properly objecting to such exhibits.
5	Various	Taxpayer submitted Docs.		Vague and ambiguous, thus preventing the Department from adequately identifying, locating or properly objecting to such exhibits.

Department's Exhibits:

Exhibit Number	Date	Description	Relevance	Objection
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1	August 27, 2014	Notice of Tax Liability	Department's <i>prima facie</i> case	None
2	December 13, 2012	Notice of Audit Initiation	Shows that Petitioner was notified of books and records needed for the Audit	None
3	February 28, 2013	Notice of Audit Expansion	Same	None
4	April 3, 2013	Letter from Arnstein & Lehr to Petitioner	Same	None
5	April 17, 2013	Letter from Arnstein & Lehr to Petitioner	Same	None
6	September 3, 2013	Notice of Audit Expansion	Same	None
7	September 6, 2013	Notice of Proposed Liability	Shows that Petitioner was notified of the Department's conclusions regarding his books and records	None
8	June 26, 2014	Notice of Audit Results	Same	None
9	June 26, 2014	Global Taxable Exceptions Detailed Report	Explains basis for Notice of Tax Liability	Objection
10	(Undated)	Auditor's Comments	Same	Objection
11	June 26, 2014	Sales Tax Audit System's Projected Data Results	Same	Objection
12	September 5, 2013	Additional High Rate Taxable Base Computation Per Audit	Same	Objection
13	September 5, 2013	Additional Low Rate Tax Due Per Audit	Same	Objection

14	(Undated)	(Sample) Form ST-1, Sales and Use Tax and E911 Surcharge Return	Same	
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Non-objected to exhibits will be received in evidence by operation of this Order, without any need for further foundation testimony;

(d) Witnesses will be as follows:

Petitioner's Witnesses:

Number	Name	Objections
1.	Jamal Chaudhary	None

Department's Witnesses:

Witnesses who may be called:

Number	Name	Objections
1.	Jamal Chaudhary	

(Petitioner)

If called, Petitioner will testify regarding the Illinois sales and use tax returns he filed for the Periods, the Audit, relevant correspondence he exchanged with the Department during the Audit, and the books and records he provided during the Audit.

Witnesses who will be called:

Number	Name	Objections
1.	Jane M. Stroud	

(Department Auditor)

Ms. Stroud conducted the Audit, and will testify regarding her background, the Audit, relevant correspondence she exchanged with Petitioner during the Audit, and the books and records Petitioner provided during the Audit.

(e) There will be no expert witnesses.

(f) No motions in limine will be presented.

(g) The parties estimate that the hearing will require one day.

Administrative Law Judge

Date: _____

[Attorneys are to sign the form before presenting it to the court]



Attorney for Petitioner



Attorney for the Department