

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

NARINDER SINGH and)	
BALWINDER SRA,)	
)	
Petitioner,)	
)	Case No. 14-TT-189
v.)	
)	Chief Judge James M. Conway
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Respondent.)	

ANSWER

NOW COMES the Illinois Department of Revenue (“Department”), through its attorney, Lisa Madigan, Illinois State Attorney General, and for its Answer to the Narinder Singh and Balwinder Sra (collectively, “Petitioner”) Petition respectfully pleads as follows:

PARTIES

1. Petitioners are individuals located at 1345 Court Q, Hanover Park, Illinois, 60133, and can be reached at 630-398-1027.

ANSWER: The Department admits the factual allegations contained in paragraph 1.

2. Petitioners are represented by Romanoff & 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.

ANSWER: The Department admits the factual allegations contained in paragraph 2.

3. Petitioner’s Taxpayer (Account) ID is XXX-XX-8126.

ANSWER: The Department admits that the last four digits of Petitioner's Taxpayer ID are 8126.

4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

ANSWER: The Department admits the allegations contained in paragraph 4.

NOTICE

5. On August 11, 2014, Petitioner received three (3) Notice of Deficiency letters for Form IL-1040, Individual Income Tax Return ("Notices") for the tax years 2007, 2008, and 2009. The Notices, in the aggregate, reflect approximately \$22,000 in tax due, plus penalties and interest. The Notices are attached hereto as Exhibit 1.

ANSWER: The Department admits that on or about August 11, 2014, the Department issued Petitioner three Notice of Deficiency letters for Form IL-1040, Individual Income Tax Return ("Notices") for the tax years 2007, 2008, and 2009 ("Years at Issue") in the amounts of \$22,830.06, \$22,195.28, and \$5,148.05, respectively, for an aggregate assessed liability, including penalty and interest, of \$50,173.39.

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.

ANSWER: The Department admits the allegation contained in paragraph 6.

7. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this Petition within 60 days of the Notice.

ANSWER: Paragraph 7 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Department admits the existence, force, and effect at all relevant times of the statutes referred to in Paragraph 7.

BACKGROUND

8. Petitioner owned an S corporation that was audited for sales tax by the Department.

ANSWER: The Department admits the factual allegations contained in paragraph 8.

9. The sales tax audit results of the S corporation were projected by the Department to create business income tax assessments that have been protested and that are currently pending in the Department's administrative hearings division because those assessments do not properly account for the S corporation's cost of goods sold. The business income tax assessments issued to the S corporation were projected by the Department to create the individual income tax assessments at issue herein.

ANSWER: The Department admits that "the sales tax audit results of the S corporation were projected by the Department to create business income tax assessments that have been protested and that are currently pending in the Department's administrative hearings division [Docket No. 14-IT-290]." However, the Department denies that "those assessments do not properly account for the S corporation's cost of goods sold." Lastly, the Department admits that

the “business income tax assessments issued to the S corporation were projected by the Department to create the individual income tax assessments at issue herein.”

10. The individual income tax assessments contained in the Notices in this matter are based on business income tax assessments that are not yet final.

ANSWER: The Department admits the statement contained in Paragraph 10.

COUNT I

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

ANSWER: The Department incorporates and repeats its answers to Paragraphs 1 through 10 as if fully set forth herein.

12. The Department assessed the individual income tax liabilities contained in the Notices based on business income tax assessments that are still pending and that are overstated for several reasons including but not limited to understated cost of goods sold.

ANSWER: The Department admits that it “assessed the individual income tax liabilities contained in the Notices based on business income tax assessments that are still pending.” The Department however denies that such assessments “are overstated for several reasons including but not limited to understated cost of goods sold.”

13. By applying the Department's unfinalized and overstated business income tax assessments to the individual income tax Notices herein, the Department drastically and unreasonably inflated Petitioner's individual income tax liability.

ANSWER: The Department denies the allegations contained in paragraph 13.

WHEREFORE, the Department prays that the Tribunal enter an order to:

- a. deny any prayer for relief in the Petitioner's Petition;
- b. find the Notices of Deficiency at issue correct as issued;
- c. order judgment in favor of Department and against Petitioner; and
- d. grant such further relief as this Tribunal deems appropriate under the circumstances.

COUNT II

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

ANSWER: The Department incorporates and repeats its answers to Paragraphs 1 through 13 as if fully set forth herein.

15. In its Notices, the Department assessed multiple penalties.

ANSWER: The Department admits that, pursuant to the Uniform Penalty and Interest Act (35 ILCS 735/3-1 *et seq.*), it assessed a variety of penalties for the Years at Issue.

16. 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.

ANSWER: Paragraph 16 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). The Department admits the existence, force, and effect at all relevant times of 35 ILCS 735/3-8.

17. 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).

ANSWER: Paragraph 17 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). The Department admits the existence, force, and effect at all relevant times of 86 Ill. Admin. Code § 700.400(b).

18. Petitioner exercised ordinary business care and prudence when it reasonably determined its individual income liability during the audit periods and clearly did not use the Department's proposed business income tax audit results.

ANSWER: Paragraph 18 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

WHEREFORE, the Department prays that the Tribunal enter an order to:

- a. deny any prayer for relief in the Petitioner's Petition;
- b. find the Notices of Deficiency at issue correct as issued;
- c. order judgment in favor of Department and against Petitioner; and

d. grant such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: /s/ Jonathan M. Pope
Jonathan M. Pope
Special Assistant Attorney General

Jonathan M. Pope
Special Assistant Attorney General
Illinois Department of Revenue
Office of Legal Services
100 W. Randolph St., 7-900
Chicago, IL 60601
Telephone: (312) 814-3185
Facsimile: (312) 814-4344
Email: jonathan.pope@Illinois.gov

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