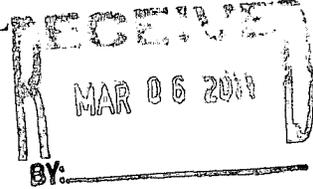


ILLINOIS INDEPENDENT TAX TRIBUNAL
160 N. LASALLE STREET, ROOM N506
CHICAGO, ILLINOIS 60601



PETITION DATED MARCH 5, 2014

PETITIONER:

Suraj M. Gupta
900 Auburn Lane
Bartlett, IL 60103
630-736-0750

Taxpayer ID: XXX-XX-1036

PETITIONER'S ATTORNEYS:

Gust W. Dickett and James E. Dickett
Romanoff & Dickett, Ltd.
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)
jdickett@aol.com

STATUTORY NOTICE AT ISSUE INCLUDING TAX PERIODS AT ISSUE:

NPL Penalty ID: 1040931
Personal Liability Assessment dated January 15, 2014 (copy attached)
For Unpaid Corporate Sales Taxes of Bombay Foods Inc. (IBT No. 3516-9184)
Amount = \$94,208.80 (tax = \$59,162.04; penalty = \$20,415.20; interest = \$14,631.56)
Tax periods at issue: June 2009, March 2010 to December 2010, November 2013

STATEMENT OF FACTS:

1. The Statutory Notice at issue is a personal liability assessment (a.k.a. NPL) issued to the Petitioner on January 15, 2014 for the tax periods ending June 2009, March 2010 to December 2010, and November 2013 (copy attached) ("Statutory Notice").
2. The Petitioner is an absentee partial owner of the underlying corporation that currently is on a \$2,000 per month payment plan with the Department for the exact same unpaid sales taxes, penalties, and interest that is contained in the Statutory Notice at issue. In particular, the Petitioner pre-signs business checks once a month and then the daily managers (employees) pay the bills. The Petitioner otherwise does not visit the business location nor does the Petitioner participate in the day-to-day operations of the business.

SUMMARY OF THE ERRORS OF FACT OR LAW:

3. The Statutory Notice is erroneous because the legal elements of responsibility and willfulness (35 ILCS 735/3-7) are not supported by the facts. In particular, the Petitioner is an absentee partial owner who is not responsible for the filing and payment of sales taxes and who is not willful because the underlying corporation is currently on a \$2,000 per month payment plan with the Department.
4. Alternatively, even if the Petitioner is determined to be responsible and willful under 35 ILCS 735/3-7, the Statutory Notice is overstated because the statute allows the Department to issue a personal liability assessment only for the unpaid TAXES of the underlying corporation and not for the unpaid penalties and interest of the underlying corporation since only the TAXES were collected (or should have been collected) "in trust" for the state.

RELIEF SOUGHT BY PETITIONER:

5. The Petitioner respectfully requests that the Illinois Independent Tax Tribunal cancel the Statutory Notice at issue in this Petition.

Thank you for considering this Petition.

Suraj M. Gupta, Petitioner

By: 

James E. Dickett, One of Petitioner's Attorneys
Romanoff & Dickett, Ltd.
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)
jdickett@aol.com

Enclosures: Copy of Statutory Notice dated 1/15/14
Power of Attorney form
Check for \$500 for filing fee

Collection Action

Assessment and Notice of Intent



January 15, 2014



Letter ID: L0432536928

SURAJ M. GUPTA
900 AUBURN LN
BARTLETT IL 60103-4570

Taxpayer ID: XXX-XX-1036
NPL Penalty ID: 1040931



BOMBAY FOOD INC
1105 NERGE RD
ELK GROVE VILLAGE, IL 60007-3260

We have determined you are personally liable for a penalty of \$94,208.80.

The penalty is equal to the amount of unpaid liability of BOMBAY FOOD INC , due to your status as a responsible officer, partner, or individual of BOMBAY FOOD INC .

Illinois law (35 ILCS 735/3-7) provides that any person who has control, supervision, or responsibility of filing returns or making payments for a taxpayer, and who willfully fails to do so, shall be personally liable for a penalty equal to the amount of tax due including penalty and interest.

Pay us \$94,208.80. Your payment must be guaranteed (*i.e.*, cashier's check, money order) and made payable to the Illinois Department of Revenue. Send or bring it to us at the address below.

If you do not agree, you may contest this notice by following the instructions listed below.

- **If the amount of this liability is more than \$15,000**, file a petition with the Illinois Independent Tax Tribunal within **60 days** of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, *et seq.*).
- **In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal**, file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within 60 days of the date of this notice, which is **March 16, 2014**. 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.
- **Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue**, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/ 2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

If the debt remains unpaid and this penalty becomes final, we intend to take collection enforcement action against you personally to collect this debt. Collection action can include the seizure and sale of your assets, and levy of your wages and bank accounts.

DEBBIE PAONI
100% PENALTY UNIT
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19035
SPRINGFIELD IL 62794-9035

For information about
› how to pay
› submitting proof
› collection actions



217 782-9904 ext. 31607
217 785-2635 fax

IDOR-5P-NPL (R-11/13)

Collection Action

Assessment and Notice of Intent



January 15, 2014



Letter ID: L0432536928

SURAJ M. GUPTA
900 AUBURN LN
BARTLETT IL 60103-4570

Taxpayer ID: XXX-XX-1036

NPL Penalty ID: 1040931



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: 3516-9184

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	52,536.00	9,670.00	10,003.88	-	(41,574.96)	30,634.92
31-Mar-2010	25,626.00	4,773.00	2,412.89	-	(2,263.00)	30,548.89
30-Apr-2010	3,061.00	658.00	251.54	-	(272.00)	3,698.54
31-May-2010	3,061.00	658.00	243.54	-	(272.00)	3,690.54
30-Jun-2010	3,061.00	658.00	234.54	-	(272.00)	3,681.54
31-Jul-2010	3,061.00	658.00	224.54	-	(272.00)	3,671.54
31-Aug-2010	3,061.00	658.00	215.54	-	(272.00)	3,662.54
30-Sep-2010	3,061.00	658.00	206.54	-	(272.00)	3,653.54
31-Oct-2010	3,061.00	658.00	197.54	-	(272.00)	3,644.54
30-Nov-2010	3,061.00	658.00	188.54	-	(272.00)	3,635.54
31-Dec-2010	2,788.00	708.00	180.46	-	-	3,676.46
30-Nov-2013	2,899.00	0.20	0.01	-	(2,889.00)	10.21

IDOR-5P-NPL (R-11/13)

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: L0432536928

SURAJ M. GUPTA

Total amount due: \$94,208.80

Write the amount you are paying below.

\$ _____

Write your Taxpayer ID on your check.

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



Illinois Department of Revenue
IL-2848 Power of Attorney

Read this information first

Attach a copy of this form to each specific tax return or item of correspondence for which you are requesting power of attorney.
Do not send this form separately.

Step 1: Complete the following taxpayer information

1	<u>Suraj M. Gupta</u>	3	<u>900 Auburn Lane</u>
Taxpayer's name		Taxpayer's street address	
2	<u>XXX-XX-1036</u>	<u>Bartlett</u>	<u>IL</u> <u>60103</u>
Taxpayer's identification number(s)		City	State ZIP

Step 2: Complete the following information

4 The taxpayer named above appoints the following to represent him before the Illinois Department of Revenue.

GUST DICKETT/JAMES DICKETT

Name GUST DICKETT/JAMES DICKETT

Name of firm ROMANOFF & DICKETT, LTD.

Street address 600 HILLGROVE AVE., SUITE 1

City WESTERNSPRING State IL ZIP 60558

Daytime phone number (708) 784-3200

E-mail address JDICKETT@AOL.COM

Specific tax type ALL Year or period ALL

Name _____

Name of firm _____

Street address _____

City _____ State _____ ZIP _____

Daytime phone number _____

E-mail address _____

Specific tax type _____ Year or period _____

Name _____

Name of firm _____

Street address _____

City _____ State _____ ZIP _____

Daytime phone number _____

E-mail address _____

Specific tax type _____ Year or period _____

5 The attorneys-in-fact named above shall have, subject to revocation, full power and authority to perform any act that the principals can and may perform, including the authority to receive confidential information.

The attorneys-in-fact named above do not have the power to -- Check only the items below you do not wish to grant.

- endorse or collect checks in payment of refunds.
- receive checks in payment of any refund of Illinois taxes, penalties, or interest.
- execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
- execute consents extending the statutory period for assessments or collection of taxes.
- delegate authority or substitute another representative.
- file a protest to a proposed assessment.
- execute offers in compromise or settlement of tax liability.
- represent the taxpayer before the department in all proceedings including hearings (requiring representation by an attorney) pertaining to matters specified above.
- obtain a private letter ruling on behalf of the taxpayer.
- perform other acts (explain) _____

6 This power of attorney revokes all prior powers of attorney on file with the department with respect to the same matters and years or periods covered by this form, except for the following:

Name _____	Name _____	Name _____
Street address _____	Street address _____	Street address _____
City _____ State _____ ZIP _____	City _____ State _____ ZIP _____	City _____ State _____ ZIP _____
Daytime phone number _____	Daytime phone number _____	Daytime phone number _____
Date granted _____	Date granted _____	Date granted _____



