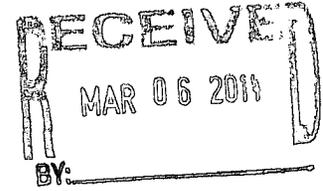


**ILLINOIS INDEPENDENT TAX TRIBUNAL  
160 N. LASALLE STREET, ROOM N506  
CHICAGO, ILLINOIS 60601**

**PETITION DATED MARCH 5, 2014**



**PETITIONER:**

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

Taxpayer ID: XXX-XX-1131

**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](mailto:jdickett@aol.com)

**STATUTORY NOTICE AT ISSUE INCLUDING TAX PERIODS AT ISSUE:**

NPL Penalty ID: 1040932  
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:**

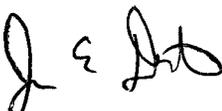
3. The Statutory Notice is erroneous because the legal elements of responsibility and willfulness (35 ILCS 735/3-7) are not supported by the facts. In particular, the Petitioner is an absentee partial owner who is not responsible for the filing and payment of sales taxes and who is not willful because 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.

Girish 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](mailto: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: L0096992608

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

Taxpayer ID: XXX-XX-1131  
NPL Penalty ID: 1040932



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](http://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: L0096992608

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

Taxpayer ID: XXX-XX-1131  
 NPL Penalty ID: 1040932



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)



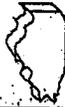
Letter ID: L0096992608  
 GIRISH M. GUPTA

**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 Girish M. Gupta 3 900 Auburn Lane  
 Taxpayer's name Taxpayer's street address  
 2 XXX-XX-1131 Bartlett IL 60103  
 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.

<u>GUST DICKETT/JAMES DICKETT</u> Name	_____ Name	_____ Name
<u>ROMANOFF &amp; DICKETT, LTD.</u> Name of firm	_____ Name of firm	_____ Name of firm
<u>600 HILLGROVE AVE., SUITE 1</u> Street address	_____ Street address	_____ Street address
<u>WESTERNSPRING IL 60558</u> City State ZIP	_____ City State ZIP	_____ City State ZIP
<u>(708) 784-3200</u> Daytime phone number	_____ Daytime phone number	_____ Daytime phone number
<u>JDICKETT@AOL.COM</u> E-mail address	_____ E-mail address	_____ E-mail address
<u>ALL</u> <u>ALL</u> Specific tax type Year or period	_____ Specific tax type Year or period	_____ 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



7 Copies of notices and other written communications addressed to the taxpayer in proceedings involving the matters listed on the front of this form should be sent to the following:

<b>JAMES DICKETT</b> Name	Name	Name
<b>600 HILLGROVE AVE., SUITE 1</b> Street address	Street address	Street address
<b>WESTERNSPRING IL 60558</b> City State ZIP	City State ZIP	City State ZIP
<b>(708) 784-3200</b> Daytime phone number	( ) Daytime phone number	( ) Daytime phone number

**Step 3: Taxpayer's signature**

If signing as a corporate officer, partner, fiduciary, or individual on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.

<i>[Signature]</i> Taxpayer's signature	<b>CRISTY GURIA</b> Title, if applicable	<b>3/5/14</b> Date
Spouse's signature	Title, if applicable	Date
If corporation or partnership, signature of officer or partner	Title, if applicable	Date

**Step 4: Complete the following if the power of attorney is granted to an attorney, a certified public accountant, or an enrolled agent**

- I declare that I am not currently under suspension or disbarment and that I am
- a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
  - duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
  - enrolled as an agent pursuant to the requirements of United States Treasury Department Circular Number 230.

<b>ATTORNEY</b> Designation (attorney, C.P.A., enrolled agent)	<b>IL</b> Jurisdiction (state(s), etc.)	<i>[Signature]</i> Signature	<b>3-5-14</b> Date
<b>ATTORNEY</b> Designation (attorney, C.P.A., enrolled agent)	<b>IL</b> Jurisdiction (state(s), etc.)	<i>[Signature]</i> Signature	<b>3-5-14</b> Date
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date

**Step 5: Complete the following if the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent**

If the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent, this document must be witnessed or notarized below. Please check and complete one of the following.

Any person signing as or for the taxpayer

\_\_\_\_\_ is known to and this document is signed in the presence of the two disinterested witnesses whose signatures appear here.

Signature of witness	Date
Signature of witness	Date

\_\_\_\_\_ appeared this day before a notary public and acknowledged this power of attorney as his or her voluntary act and deed.

Signature of notary	Date
---------------------	------

**Notary seal**



*2013*