

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:

MOHAMMAD LAVAF
dba The Hungry Pocket

) OTA Case No. 19043000
) CDTFA Case ID: 942263
) CDTFA Acct. No. 18-696750
)
) Date Issued: October 23, 2019
)

OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant:

Mohammad Lavaf

For Respondent:

Kevin Hanks, Chief,
Headquarters Operations Bureau

J. ANGEJA, Administrative Law Judge: On May 7, 2019, the Office of Tax Appeals (OTA) issued an Opinion sustaining respondent California Department of Tax and Fee Administration’s (CDTFA) denial of appellant’s petition for redetermination of CDTFA’s Notice of Determination, which proposed a liability under the California Sales and Use Tax Law consisting of a tax liability of \$28,760.31, plus applicable interest, for the period July 1, 2012, through August 31, 2015.

By letter dated May 21, 2019, Mohammad Lavaf (appellant) petitioned for rehearing of this matter. Upon consideration of the petition for rehearing, we conclude that the grounds set forth therein do not constitute good cause for a new hearing, as required by *Appeal of Sjöfinar Do*, 2018-OTA-002P, and California Code of Regulations, title 18, section 30604, subdivisions (a)-(e).

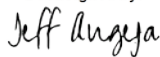
A rehearing may be granted where one of the following grounds exists and the rights of the complaining party are materially affected: (1) irregularity in the proceedings by which the party was prevented from having a fair consideration of its case; (2) accident or surprise that occurred during the proceedings and prior to the issuance of the written opinion, which ordinary prudence could not have guarded against; (3) newly discovered, relevant evidence, which the party could not, with reasonable diligence, have discovered and produced prior to the issuance of

the written opinion; (4) insufficient evidence to justify the written opinion, or the opinion is contrary to law; or (5) an error in law. (*Appeal of Sjoftar Do, supra*; Cal. Code Regs., tit. 18, § 30604(a)-(e).)


In its petition for rehearing, appellant does not set forth specific grounds for a new hearing, but repeats the same arguments that appellant presented to OTA during the initial appeal (i.e., appellant asserts that an adjustment is warranted based on CDTFA’s alleged factual errors in its brief that appellant sold beer and wine, and that relief from tax is warranted based on erroneous oral advice allegedly received from a CDTFA employee). OTA has already addressed these arguments. In its May 7, 2019 Opinion, OTA rejected the same contentions and sustained CDTFA’s actions.


Appellant has not demonstrated any irregularity in OTA’s proceedings, offered new evidence which could not, with reasonable diligence, have been discovered and produced prior to the decision of his appeal, or established that the evidence was insufficient to justify OTA’s Opinion. Furthermore, appellant has not demonstrated any error in law. Accordingly, we find appellant has not shown good cause for a new hearing as is required by the authorities referenced above.

For the foregoing reasons, appellant’s petition is hereby denied.

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Jeffrey G. Angeja
Administrative Law Judge

We concur:

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Linda C. Cheng
Administrative Law Judge

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Alberto T. Rosas
Administrative Law Judge