

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of:

**G. SHAKOLAS**) OTA Case No. 18083527  
) CDTFA Account No. 101-283651  
) CDTFA Case ID 974554  
)  
)  
)**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellant:

Juan Guzman, CPA

For Respondent:

Jason Parker, Chief  
Headquarters Operations Bureau

D. CHO, Administrative Law Judge: On October 11, 2019, the Office of Tax Appeals issued an opinion sustaining respondent California Department of Tax and Fee Administration's (CDTFA) denial of G. Shakola's (appellant) petition for redetermination of a Notice of Determination, which assessed additional tax of \$60,033.37, plus applicable interest, for the period January 1, 2012, through December 31, 2014. By letter dated November 11, 2019, appellant filed a timely petition for rehearing of this matter. Upon consideration of the petition for rehearing, we conclude that the grounds set forth therein do not meet the requirements for a rehearing under *Appeal of Do*, 2018-OTA-002P, and California Code of Regulations, title 18, section 30604.

A rehearing may be granted where one of the following grounds exist and the rights of the filing party are materially affected: (a) irregularity in the proceedings by which the filing party was prevented from having a fair consideration of the case; (b) 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; (c) newly discovered, relevant evidence, which the filing party could not, with reasonable diligence, have discovered and produced prior to the issuance of the written opinion; (d) insufficient evidence to justify the written opinion, or the

opinion is contrary to law; or (e) an error in law. (*Appeal of Do, supra*; Cal. Code Regs., tit. 18, § 30604(a)-(e).)

Appellant’s petition for rehearing does not set forth any of the above grounds for rehearing but merely repeats his arguments during his appeal to the Office of Tax Appeals. For example, appellant argues that he provided all his records during the audit, CDTFA failed to conduct a second auditing method in accordance with CDTFA’s audit manual, and appellant’s reported taxable sales should be accepted. As discussed in our opinion, all of appellant’s arguments fail to establish that CDTFA’s actual audit of the business using a credit card ratio was unreasonable or lacking foundation. Furthermore, we also found that CDTFA conducted a second audit method to support its credit card ratio audit method.

Appellant has not demonstrated any irregularity in the Office of Tax Appeals’s proceedings, offered new evidence that could not have been discovered and produced prior to the issuance of the opinion in this appeal, or established that the evidence was insufficient to justify the Office of Tax Appeals’s opinion. Furthermore, appellant has not demonstrated any error in law. Thus, we conclude that appellant is not entitled to a new hearing.

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

DocuSigned by:  
*Daniel Cho*  
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Daniel K. Cho  
Administrative Law Judge

We concur:

DocuSigned by:  
*Nguyen Dang*  
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Nguyen Dang  
Administrative Law Judge

DocuSigned by:  
*Kenneth Gast*  
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Kenneth Gast  
Administrative Law Judge

Date Issued: 4/1/2020