

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 18043005
S. ARNOLD) CDTFA Case ID: 916746
) CDTFA Acct. No. 053-013727
) _____
)

OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: Jesse McClellan, Attorney

For Respondent: Chad Bacchus, Tax Counsel III

J. ANGEJA, Administrative Law Judge: On March 6, 2020, the Office of Tax Appeals (OTA) issued an opinion in which it concluded that appellant S. Arnold (appellant) was personally liable pursuant to Revenue and Taxation Code (R&TC) section 6829, for the unpaid liabilities of Legends Home Furnishings (Legends). Appellant filed a timely petition for rehearing (PFR). We conclude that the grounds set forth therein do not establish a basis for granting a rehearing. (Cal. Code Regs., tit. 18, § 30604; *Appeal of Do*, 2018-OTA-002P.)

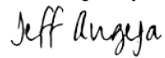
A rehearing may be granted where one of the following five grounds exists, and the substantial rights of the complaining party are materially affected: (a) an irregularity in the appeal proceedings that occurred prior to the issuance of the written opinion and prevented fair consideration of the appeal; (b) an accident or surprise that occurred during the appeal proceedings and prior to the issuance of the written opinion, which ordinary caution could not have prevented; (c) newly discovered, relevant evidence, which the party could not have reasonably discovered and provided 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. (Cal. Code Regs., tit. 18, § 30604(a)-(e); *Appeal of Do, supra*.)

In his PFR, appellant raises the following four arguments: 1) appellant's new markup analysis proves reductions to the liability of Legends are warranted; 2) appellant did not willfully fail to pay Legends' tax liability; 3) the opinion misstates appellant's stipulation regarding


Legends’ collection of tax reimbursement; and 4) the California Department of Tax and Fee Administration did not prove that Legends collected tax reimbursement on the assessed, unreported taxable sales.

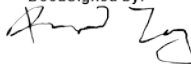
Appellant’s PFR repeats the arguments made in his post-hearing brief, which we addressed and rejected in our opinion.¹ Moreover, none of appellant’s arguments establish any of the five grounds for a new hearing. (Cal. Code Regs., tit. 18, § 30604(a)-(e); *Appeal of Do, supra.*) Accordingly, we find appellant 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.

DocuSigned by:

Jeffrey G. Angeja
Administrative Law Judge

We concur:

DocuSigned by:

Josh Lambert
Administrative Law Judge

DocuSigned by:

Richard I. Tay
Administrative Law Judge

Date Issued: 5/27/2020

¹ As noted in our opinion, these arguments exceeded the scope of the post-hearing briefing we allowed in our post-hearing order. On that basis we rejected them, but from abundant caution our opinion addressed them on the merits as well.