

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:

BAINS D., LLC) OTA Case No. 18124132
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)**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellant:

Darshan Singh, President

For Respondent:

Diane M. Deatherage, Program Specialist III

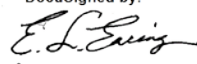
E. S. EWING, Administrative Law Judge: On December 11, 2019, we issued an Opinion sustaining respondent Franchise Tax Board's (FTB) action denying Bains D., LLC's (appellant) claim for refund of \$555 for the 2016 through 2018 tax years. Upon considering appellant's petition for rehearing (Petition), we conclude that the grounds set forth therein do not meet the requirements for a rehearing under California Code of Regulations, title 18, section 30604.

A rehearing may be granted where one of the following grounds exists and the substantial rights of the filing party (here, appellant) are materially affected: (a) an irregularity in the appeal proceedings which occurred prior to issuance of the written opinion and prevented fair consideration of the appeal; (b) accident or surprise which 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 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).)

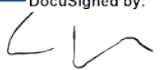
Appellant argues that a rehearing is warranted because the opinion is contrary to law. In support, appellant reasserts essentially the same grounds for abatement of the three penalties assessed by FTB: that appellant relied on a tax preparer to timely file the returns and that FTB's actions were not timely. However, we fully addressed these assertions in our Opinion, and, upon


review, do not find the determinations in that Opinion to be contrary to law. Appellant's dissatisfaction with our Opinion and attempt to reargue the same issues do not constitute grounds for a rehearing. (*Appeal of Smith*, 2018-OTA-154P.)

Accordingly, appellant's Petition is hereby denied.

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Elliott Scott Ewing
Administrative Law Judge

We concur:

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Andrew J. Kwee
Administrative Law Judge

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Kenneth Gast
Administrative Law Judge

Date Issued: 9/30/2020