

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
BAKE R US, INC.,) OTA NO. 220510324
)
APPELLANT.)
)
)

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Wednesday, October 12, 2022

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Proceedings, taken at
12900 Park Plaza Dr., Cerritos, California,
91401, commencing at 9:30 a.m. and concluding
at 10:07 a.m. on Wednesday, October 12, 2022,
reported by Ernalyn M. Alonzo, Hearing Reporter,
in and for the State of California.

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APPEARANCES:

ADMINISTRATIVE LAW JUDGE: EDDY LAM

For the Appellant: DAVID AFRAMIAN

For the Respondent: STATE OF CALIFORNIA
DEPARTMENT OF TAX AND
FEE ADMINISTRATION

MARI GUZMAN
CHAD BACCHUS
JASON PARKER

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I N D E X

E X H I B I T S

(Appellant's Exhibit 1 was received at page 7.)

(Department's Exhibits A-G were received at page 7.)

OPENING STATEMENT

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By Mr. Aframian 9

By Ms. Guzman 13

CLOSING STATEMENT

PAGE

By Mr. Aframian 24

1 Cerritos, California; Wednesday, October 12, 2022

2 9:30 a.m.

3
4 JUDGE LAM: We're opening the record in the
5 Appeal of Bake R Us. This -- sorry. Let me speak a
6 little louder.

7 We're opening up the record in the Appeal of Bake
8 R Us. This matter is being held before the Office of Tax
9 Appeals. The OTA Case Number is 220510324. Today's date
10 is Wednesday, October 12, 2022, and the time is
11 approximately 9:30 a.m.

12 Appellant has elected to have this appeal
13 determined pursuant to the procedures of the Small Case
14 Program. Those procedures require the assignment of a
15 single Administrative Law Judge. And, again, my name is
16 Eddy Lam, and I will be the Administrative Law Judge for
17 the purposes of this appeal.

18 Now for introductions, can we have Appellant
19 start introducing yourself onto the record.

20 MR. AFRAMIAN: My name is David Aframian.

21 JUDGE LAM: Thank you, Mr. Aframian.

22 Can we have Respondent start introducing
23 themselves onto the record.

24 MS. GUZMAN: Mari Guzman, legal counsel for the
25 Department.

1 MR. BACCHUS: Chad Bacchus with the Legal
2 Division.

3 MR. PARKER: And Jason Parker, Chief of
4 Headquarters Operations Bureau.

5 JUDGE LAM: Thank you so much.

6 As discussed and agreed upon by the parties at
7 the prehearing conference on September 23rd, 2022, and
8 notated in my minutes and orders, the issue in this matter
9 are as follows: Number one, whether Appellant has
10 established reasonable cause for the relief of the failure
11 to file penalty; and number two, whether Appellant is
12 entitled to relief of any of the accrued interest.

13 Are there any objections to this objection issue,
14 Appellant?

15 MR. AFRAMIAN: No, Judge.

16 JUDGE LAM: Thank you.

17 Respondent?

18 MS. GUZMAN: No objection.

19 JUDGE LAM: Thank you.

20 Appellant has identified Exhibit 1. It has no
21 other exhibits to offer as evidence. Is that correct,
22 Appellant?

23 MR. AFRAMIAN: That's correct.

24 JUDGE LAM: Thank you.

25 And, Respondent, do you have any objections?

1 MS. GUZMAN: No objections.

2 JUDGE LAM: Thank you.

3 And Respondent has identified Exhibits A through
4 G, which the Office of Tax Appeals had attached the
5 exhibits and emailed it to you, Mr. Aframian.

6 And there's no other exhibits to be offered as
7 evidence. Is that correct, Respondent?

8 MS. GUZMAN: That's correct. No other exhibits.

9 JUDGE LAM: Thank you.

10 Does Appellant have any objections to Exhibits A
11 through G?

12 MR. AFRAMIAN: No, I don't.

13 JUDGE LAM: Okay. Thank you.

14 No objections were raised, and these exhibits
15 will admitted into the record.

16 (Appellant's Exhibit 1 was received in
17 evidence by the Administrative Law Judge.)

18 (Department's Exhibits A-G were received in
19 evidence by the Administrative Law Judge.)

20 Okay. And then, Mr. Aframian, you have indicated
21 at the prehearing conference that you will testify as a
22 witness at this oral hearing. I just want to reiterate
23 from what I discussed at the prehearing conference, which
24 is once you're sworn in as a witness, the witness will be
25 open to cross-examination by CDTFA. And since CDTFA is

1 not calling any other witnesses or any witnesses, there
2 will not be a chance for you to cross-examine CDTFA. But
3 on the other hand, you will be offered a final rebuttal at
4 the close of this hearing. So I just wanted to double
5 check with you. Do you still want to testify as a
6 witness?

7 MR. AFRAMIAN: Yes. I have no objections.

8 JUDGE LAM: Okay. Well, Mr. Aframian, we'll
9 swear you in for this testimony.

10 Ms. Alonzo, can you hear? Okay. Thank you.

11 JUDGE LAM: Mr. Aframian, can you speak into the
12 mic because I can't really hear.

13 MR. AFRAMIAN: Oh, yeah.

14 JUDGE LAM: Thank you. And then, Mr. Aframian,
15 we'll swear you in. Would you raise your right hand for
16 me.

17
18 D. AFRAMIAN,
19 produced as a witness, and having been first duly sworn by
20 the Administrative Law Judge, was examined and testified
21 as follows:

22
23 JUDGE LAM: Okay. Thank you, Mr. Aframian.

24 Okay. Well, this oral hearing will begin.

25 And, Mr. Aframian, can you begin your

1 presentation for about 20 minutes, which includes your
2 witness testimony. As a reminder, Mr. Aframian, you will
3 be offered a final statement after CDTFA's presentation
4 for about five minutes.

5 MR. AFRAMIAN: Okay. Thank you.

6 JUDGE LAM: You can begin now.

7
8 PRESENTATION

9 MR. AFRAMIAN: So, Your Honor, my name is David
10 Aframian. I'm vice president of Bake R Us, and I met with
11 Tonelli representatives early 2012 at their office and
12 purchased a mixer equipment. During our meetings, I
13 specifically requested Tonelli to be in charge of
14 crediting, shipping, customs clearance, payments of all
15 the fees and taxes at the U.S. Customs, installation, and
16 commissioning of the equipment. I requested all of these
17 expenses to be added to the base price of the equipment.

18 In August 30th, 2018, I received a statement of
19 liability, which is in Exhibit B, for tax, interest, and
20 penalty for the equipment which Tonelli imported in 2012.
21 I immediately replied with a letter, which is in Exhibit 1
22 dated September 9, 2018, requesting custom documents and
23 also contacted Tonelli. The State provided the contact
24 information of the broker who was hired by Tonelli in
25 charge of customs clearance.

1 The broker said that they do not keep any records
2 after two years, and I was looking for the paperwork which
3 was filed with the U.S. customs. The only document which
4 they provided was a one-page report that the importer name
5 is Tonelli Group, and the date of entry was July 20, 2012,
6 for \$195,000 value, according to Exhibit G. I immediately
7 called the CDTFA office and spoke with Mr. Ricky Irving in
8 September of 2018 and emphasized that Tonelli imported
9 this equipment, and I questioned the value of the
10 \$995,000.

11 Mr. Irving recommended to file a petition for
12 further review to determine how much tax, if any, is due
13 in order to avoid additional interest accrual. Once I
14 find out that Tonelli had not paid the tax, as a
15 responsible company I based \$13,125 on an estimate value
16 of \$150,000. And this value of \$150,000 was basically,
17 when I contacted Tonelli at the time, they didn't have the
18 documents from the sale of the equipment, but they said
19 this is the value approximately what it is.

20 Following the appeals hearing conference on
21 April 22nd, 2021, the Appeals Bureau recommended to reduce
22 the measure of tax from the \$195,000 to \$171,260 based on
23 the documents which we provided. The Appeals Bureau
24 indicated to us by emails, which you see dated May 24th
25 and 28th in 2021, according to Exhibit D, that once we pay

1 the balance of the tax due in the amount of \$1,860, then
2 they will provide some relief of the interest and penalty.

3 These emails from Mr. Kasey Lewallen and
4 Ms. Stephanie Fuller. Our representative, Mr. Swanson, in
5 June 12, 2021, according to Exhibit E, confirmed that we
6 will proceed to pay the newly agreed upon remainder of the
7 \$1,860 in reliance upon a reduction, if not, total removal
8 of penalties and interest.

9 Your Honor, throughout this process, we have
10 acted faithfully and honestly. Upon purchase of the
11 equipment in 2012, we asked Tonelli to cover all the cost
12 to be included. Once we found out in 2018 that the tax of
13 the equipment was not paid, we went ahead and paid \$13,125
14 and paid the additional \$1,860 in January 25th, 2022, with
15 the mutual understanding that the interest and the penalty
16 will be reduced.

17 I'd like to touch on a few statements, which is
18 the CDTFA Appeals Bureau decision, which is dated 23rd
19 2021 in Exhibit A. First, the Bureau indicated that the
20 petitioner imported from Italy into California and
21 declared value of \$195,000. The fact is, Bake R Us did
22 not import this equipment, and Bake R Us did not declare a
23 value of \$195,000. We don't know how and who came up with
24 this value.

25 Second, the Bureau indicated petitioner failed to

1 respond on October 3rd, 2018. As you can see from
2 Exhibit 1, I responded with a letter dated, September 9th,
3 2018, and also called and spoke with the CDTFA
4 representative Mr. Ricky Irving in September 2018. I
5 wanted to make sure this matter was managed and taken care
6 of properly. I responded and followed up once we received
7 the first notification in August 2018.

8 And then the third point is the Bureau argues
9 that the knowledge of the law is presumed and cannot be
10 the basis of relief of interest and penalties. This is
11 not the basis of our argument. We have always been aware
12 of sales tax and aware of our responsibility to pay sales
13 tax on purchase of equipment. We have purchased other
14 equipment, and we've paid tax on.

15 Our position has always been that we purchase a
16 turn-key equipment, and the price includes the cost and
17 expenses. Therefore, we request relief of penalties and
18 interest.

19 Thank you, Your Honor.

20 JUDGE LAM: Thank you, Mr. Aframian.

21 CDTFA, do you want to begin your
22 cross-examination?

23 MS. GUZMAN: Yes, thank you. No. We would not
24 like to cross-examine at this time. Thank you.

25 JUDGE LAM: Thank you so much. Well, Respondent

1 CDTFA, would you now like to begin your presentation?

2 MS. GUZMAN: Yes. Thank you very much.

3 JUDGE LAM: Thank you.

4

5 PRESENTATION

6 MS. GUZMAN: Good morning. There are two issues
7 before the Office of Tax Appeals today. The first is
8 whether Appellant has established reasonable cause for
9 relief of the failure to file penalty, and the second is
10 whether Appellant is entitled to relief of any accrued
11 interest. Both issues stem from Appellant's failure to
12 file a return and timely pay the use tax due on its
13 storage use or other consumption in California of imported
14 tangible personal property from Italy for the liability
15 period of January 1st, 2012, through December 31st, 2012.

16 Appellant Bake R Us, Inc., is a California
17 corporation doing business as Dave's Baking Company, which
18 manufactures food and confectionary products. Based on
19 information received from the United States Department of
20 Homeland Security Customs and Boarder Protection,
21 Exhibit G, CDTFA found that on July 20th, 2012, Appellant
22 imported tangible personal property, specifically,
23 machinery from Italy with a total declared value of
24 \$195,000. Appellant did not file sales and use tax
25 returns for the liability period.

1 On August 30th, 2018, the Department issued to
2 Appellant a statement of proposed liability, Exhibit B,
3 requesting that Appellant either pay the use tax due on
4 its storage use or other consumption in California of the
5 imported machinery, or provide proof that it did not owe
6 the tax. On October 3rd, 2018, the Department issued to
7 Appellant a Notice of Determination, Exhibit C, for the
8 liability period for approximately \$70,000 in tax, plus
9 accrued interest, and a failure to file penalty of
10 approximately \$1,700.

11 The Notice of Determination was timely issued
12 within the applicable eight-year statute of limitations
13 under Revenue & Taxation Code 6487, which applies when a
14 taxpayer does not file a use tax return for the liability
15 period, which is the case here. On October 20th, 2018,
16 Appellant filed a timely petition for redetermination
17 disputing the declared value of the imported machinery,
18 arguing that it purchased the machinery for \$150,000, and
19 that the remaining \$45,000 of the reported purchase price
20 consisted of charges for shipping and handling as well as
21 installation charges from the manufacturer. On
22 January 5th, 2019, Appellant remitted a payment of
23 approximately \$13,000 based on its own estimation of the
24 taxable purchase price of the imported machinery.

25 Following the appeals conference, Appellant

1 provided additional documentation in support of its
2 argument, including shipping and installation estimates.
3 By request, signed under penalty of perjury, dated
4 May 10th, 2021, Appellant filed a request for relief of
5 the failure to file penalty and all accrued interest in
6 this manner -- matter. Excuse me.

7 By email dated May 24th, 2021, Exhibit D, the
8 Department recommended reducing the measure of tax from
9 \$195,000 to approximately \$171,000 based on the additional
10 documentation provided by Appellant, which correspondingly
11 reduced the tax liability to approximately \$15,000 and the
12 failure to file penalty to \$1,500. By email dated
13 June 12th, 2021, Exhibit E, Appellant stated that it
14 agreed with the Department's reduction of the measure of
15 tax but continued to request penalty and interest relief.
16 On February 24th, 2022, Appellant remitted a payment of
17 approximately \$1,800, which paid off the remaining tax
18 liability. However, a balance remains of approximately
19 \$7,300; \$1,500 for the failure to file penalty and \$58,000
20 in accrued interest.

21 We first turn to the issue of whether Appellant
22 has established reasonable cause for relief of the failure
23 to file penalty. If any person fails to file a timely
24 return, the Department is required to impose a penalty
25 equal to ten percent of the amount of tax due. Failure to

1 file penalties may be relieved if a person's failure to
2 file a timely return was due to reasonable cause and
3 circumstances beyond the person's control, and occurred
4 notwithstanding the exercise of ordinary care and in the
5 absence of willful neglect.

6 Moreover, a person seeking relief must submit a
7 statement signed under penalty of perjury setting forth
8 the facts in which the request for relief is based. Here,
9 Appellant submitted a statement requesting relief
10 contending that it did not have prior knowledge or
11 experience with importing goods from abroad, and that the
12 manufacturer was responsible for transporting the
13 machinery from Italy to Appellant's facility, such that
14 Appellant was unaware that it was required to pay tax on
15 its purchase and use of the machinery.

16 Appellant also contends that after it received
17 notification in 2018 from the Department regarding the use
18 tax due, Appellant remitted a payment of approximately
19 \$13,000 based on its own estimation of the taxable
20 purchase price of the imported machinery. Lastly,
21 Appellant also request relief of the penalty because it
22 imposes a financial burden on its business.

23 Here, there is no dispute that Appellant did not
24 file a return for the liability period or otherwise report
25 its purchase and use of the imported machinery at issue.

1 As for Appellant's contention that it was unaware of the
2 requirement to pay tax on its purchase and use of imported
3 machinery, knowledge of the law is presumed. Therefore,
4 Appellant's lack of understanding and awareness of its use
5 tax responsibility on its purchase and import into
6 California of the machinery does not constitute reasonable
7 cause and circumstances beyond its control that prevented
8 the timely filing of the returns.

9 Moreover, with respect to Appellant's contention
10 that it made a payment toward its tax liability after
11 receiving the Notice of Determination, this provides no
12 legal basis for relieving the failure to file penalty
13 either.

14 Lastly, regarding Appellant's request for relief
15 based on financial hardship, the Office of Tax Appeals as
16 an administrative agency does not have any authority to
17 grant equitable relief and is, instead, bound by statute.
18 As a general matter, equitable powers can only be
19 exercised by a court of general jurisdiction. Therefore,
20 the Office of Tax Appeals may not consider the equitable
21 relief requested by Appellant.

22 Appellant has not set forth any facts explaining
23 why or how its failure to file a return to report the
24 purchase of the imported machinery at issue was due to
25 reasonable cause and circumstances beyond its control.

1 Therefore, we find no basis upon which to relieve the
2 failure to file penalty.

3 We now turn to the issue of whether Appellant is
4 entitled to relief of any accrued interest. The
5 imposition of interest is mandatory and may be relieved
6 only under very limited circumstances, such as when the
7 failure to pay tax was due to a disaster or an
8 unreasonable error or delay by a Department employee. In
9 its request for relief of the accrued interest, Appellant
10 set forth the same contentions as discussed with respect
11 to its request for relief of the failure to file penalty,
12 asserting that it did not have knowledge of its use tax
13 liability on its import and purchase of the machinery,
14 that it made a payment of approximately \$13,000 after
15 receiving notification of its outstanding tax liability,
16 and that the accrued interest imposes a financial hardship
17 on its business.

18 However, none of these circumstances fall within
19 the scope of reasons for which relief of interest may be
20 granted. And we are not aware of any facts that would
21 warrant the granting of such relief in this case.
22 Moreover, with respect to Appellant's request for relief
23 based on financial hardship, we would like to reiterate
24 that the Office of Tax Appeals does not have any authority
25 to grant equitable relief. Therefore, we find no basis

1 upon which to grant relief on the accrued interest.

2 Based on all of the evidence provided, Appellant
3 has not established reasonable cause for relief of the
4 failure to file penalty, nor has Appellant established
5 that it is entitled to relief of the accrued interest.
6 Therefore, the appeal should be denied.

7 Thank you.

8 JUDGE LAM: Thank you for that presentation.

9 I have a few questions for Mr. Aframian.

10 MR. AFRAMIAN: Yes.

11 JUDGE LAM: Mr. Aframian, it seems like you've
12 indicated that during the process of negotiation of the
13 tax base that -- is it -- are you trying to argue that
14 during that phrase of reducing the tax liability, that you
15 were -- it was presented to you that the failure to file
16 penalty and interest was going to be reduced?

17 MR. AFRAMIAN: Yes. In the --

18 JUDGE LAM: Okay. Can you explain more?

19 MR. AFRAMIAN: In the emails that you have in the
20 attached exhibits -- let's see here. 2000 -- Exhibit--
21 let's see here.

22 JUDGE LAM: Are you referring to Exhibit E?

23 MR. AFRAMIAN: Exhibit D on page 2 at the -- in
24 the last -- in the last paragraph it says in regards to
25 the CDTFA's 8735 relief from penalty and interest, we

1 request that it be handled by the applicable Department.
2 And then further down, once that is paid -- that remaining
3 balance is paid, a suggestion that a partial interest
4 relief may be warranted and will be addressed.

5 So this itself, to me, it means that they agree
6 to have some partial relief of the interest.

7 JUDGE LAM: Okay. Thank you, Mr. Aframian. And
8 then I notice that you said that -- is it Tonelli?

9 MR. AFRAMIAN: Tonelli. That's correct.

10 JUDGE LAM: Tonelli is like -- you've indicated
11 that Tonelli is where you bought the equipment and
12 shipped, and they would take care of the expenses. Are
13 you -- are there any evidence that -- that when you bought
14 the equipment that Tonelli will be remitting taxes?

15 MR. AFRAMIAN: I actually asked them that
16 question, and they said no. This is not the portion that
17 we'll pay. We'll cover all the cost. That's the only
18 cost which we don't pay. And this was back in 2018 when I
19 received the notification. We purposely did not want to
20 be involved in the entry of the product at the customs.
21 We didn't want to be there. We have never imported
22 equipment. So we wanted them to hire somebody who would
23 import equipment and manage all the cost, including the
24 taxes.

25 But when they later told us they did not include

1 that, then that's why in 2018 I went ahead and paid that
2 \$13,000 based on the value of the equipment. And, again,
3 we have no idea how that \$195,000 came about being a
4 value. I mean, where did they get that from? Nobody
5 knows, because it wasn't us who imported the equipment,
6 and they keep repeatedly saying that Bake R Us imported
7 the equipment.

8 No, we did not import the equipment. We
9 purchased that equipment here in California. And as a
10 result, like all of the other equipment that we purchased,
11 we get an invoice, and we pay it. And we don't get
12 questioned later about the taxes because everything is
13 included. Of course, that's a lesson to be learned that
14 from now on I need to make sure that there is some sort of
15 documentation from whoever we purchase equipment, they
16 have a line item that indicates this is the cost of the
17 sales, the tax.

18 We don't have anything that separates the cost of
19 the equipment we purchased from Tonelli that says this is
20 the cost for shipping. This is the cost for handling.
21 This is the cost for crating. We have two other
22 technicians who flew over from Italy, and they stayed for
23 two days. And they, of course, charged us thousands of
24 dollars, and they did not give us a breakdown of what
25 those charges were until after this whole issue evolved

1 about the fact that they had not paid the tax.

2 And then we found out, and we said, yeah, we
3 are -- we know there's a tax to be paid. So here, let's
4 sit down and find what is the actual value of the
5 equipment. Because obviously you don't have any
6 information to support the \$195,000. Where did you get
7 that from? Nobody has an answer. So how -- how can you
8 pay a tax when something does not have a correct value?

9 When I go to the super market, I purchase a
10 product. How much tax am I supposed to pay if there's no
11 price on that equipment?

12 JUDGE LAM: Thank you, Mr. Aframian. But
13 eventually you did agree on to --

14 MR. AFRAMIAN: I agreed. That's correct.

15 JUDGE LAM: -- a price. Okay.

16 Now, I want to turn over to CDTFA. When I read
17 the email in Exhibit D that Mr. Aframian had just referred
18 to, it said that once the tax is paid a relief can be
19 considered. That of -- that's of a process -- is that a
20 process for CDTFA to -- for taxes to be paid and then
21 considered whether or not interest and penalties would be
22 abated?

23 MR. PARKER: Generally speaking, the tax needs to
24 be paid because either way it's a failure to file penalty
25 or a failure to pay penalty. So if they haven't -- if

1 they still haven't paid the returns past due, a failure to
2 pay penalty would apply. So we wouldn't consider relief
3 until the amount is paid for the failure to file penalty.

4 JUDGE LAM: Okay. Thank you.

5 MR. AFRAMIAN: Your Honor?

6 JUDGE LAM: Oh, yes, Mr. Aframian.

7 MR. AFRAMIAN: I think the question that was
8 addressed by you was not answered. That question was
9 deviated. The question here is the State said its
10 warranted.

11 JUDGE LAM: Yeah. I can see that it says UTCB's
12 suggestions is that partial interest may be warranted.
13 Okay.

14 CDTFA do you have any response to that?

15 MS. GUZMAN: The email states that relief may be
16 warranted. That does not guarantee that relief will be
17 warranted, and I think the Department would continue to
18 argue that the failure to file penalty, it was not filed
19 due to reasonable cause or circumstances beyond
20 Appellant's control. So -- and also with respect to
21 interest relief, and interest is mandatory.

22 And there are specific circumstances under which
23 relief can be warranted. And here there was no disaster
24 -- or excuse me -- no facts presented that there was a
25 disaster or error or delay on behalf of the Department.

1 So there is -- there is nothing warranting the type of
2 relief requested here by Appellant.

3 JUDGE LAM: Thank you.

4 And, Mr. Aframian, I have one final question.
5 Did Tonelli ever represent to you that they would be
6 remitting sales tax?

7 MR. AFRAMIAN: Not after we inquired. Once I
8 contacted them in 2018, they said no. They had not paid
9 the tax, and they said, this was not our responsibility.
10 And then I said why didn't you disclose it to me once you
11 imported the equipment? They basically -- they don't
12 care. And they are in Italy. So I as a consequence have
13 to suffer.

14 JUDGE LAM: Thank you, Mr. Aframian. I do
15 understand that. Okay. I think that's all my questions.
16 Mr. Aframian, you have five minutes for your final
17 remarks.

18 MR. AFRAMIAN: Yes, Your Honor.

19 JUDGE LAM: Thank you.

20

21 CLOSING STATEMENT

22 MR. AFRAMIAN: As I had mentioned, you know,
23 we've been in this business for over 25 years. And from
24 our experience, when we purchase an equipment, we ask that
25 the price given to us for the delivery, installation, and

1 all the taxes to be included. We don't tell the
2 manufacturer that let us pay the tax separately. We want
3 everything to be included.

4 We did not willfully avoid payment. We did not
5 neglect payment. It's not as if we have no knowledge of
6 tax payments on equipment purchases. So the argument from
7 the State is not warranted that we should be knowledgeable
8 about it. We are fully aware of our responsibility to pay
9 the tax. And this was exemplified by the fact that we
10 paid the \$13,125 in 2019 once we found out that the taxes
11 were not paid at the time of import, not by us but by
12 Tonelli.

13 Tonelli is the company that imported the
14 equipment. So I want to make sure that's clarified in the
15 decision that was made and repeatedly being mentioned
16 today that we imported the equipment. That has to be a
17 really very important point.

18 So I kindly urge the Court to evaluate the
19 position and provide us relief of the penalty and
20 determine if perhaps the interest can be reduced, not
21 because of relief of interest, because of the timing. And
22 I suggest that to be interest calculated from the period
23 September 1st, 2018, which was when it was established
24 that the tax was not paid, until we paid the tax in
25 January of 2019.

1 I appreciate your time, and thank you for your
2 attention.

3 JUDGE LAM: Thank you, Mr. Aframian.

4 MS. GUZMAN: We're going to go ahead and waive
5 our closing remarks. Thank you.

6 JUDGE LAM: Thank you, Respondent.

7 Give me a second here. Before I close the
8 record, does either party have any questions before we
9 conclude the hearing?

10 MR. AFRAMIAN: No, Your Honor.

11 JUDGE LAM: Okay.

12 All right. So we're ready to conclude this
13 hearing. This case is submitted on October 12th, 2022.
14 The record is now closed.

15 Thank you everyone for coming in today, and we
16 will send you a written opinion of the decision within
17 100 days. Today's hearing in the Appeal of Bake R Us is
18 now adjourned. The next hearing will begin in the next
19 15 minutes.

20 Thank you and goodbye.

21 (Proceedings adjourned at 10:07 p.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for
the State of California, do hereby certify:

That the foregoing transcript of proceedings was
taken before me at the time and place set forth, that the
testimony and proceedings were reported stenographically
by me and later transcribed by computer-aided
transcription under my direction and supervision, that the
foregoing is a true record of the testimony and
proceedings taken at that time.

I further certify that I am in no way interested
in the outcome of said action.

I have hereunto subscribed my name this 26th day
of October, 2022.

ERNALYN M. ALONZO
HEARING REPORTER