

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

In the Matter of the Appeal of:	)	OTA Case No. 19014244
<b>PMR ENTERPRISES, LLC</b>	)	CDTFA Case ID 891303
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	)	
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**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellant: Anthony Mandella, General Manager

For Respondent: Jason Parker, Chief of Headquarters Ops.

D. CHO, Administrative Law Judge: On July 11, 2022, the Office of Tax Appeals (OTA) issued an Opinion sustaining a decision issued by the California Department of Tax and Fee Administration (respondent). Respondent's decision denied a petition for redetermination filed by PMR Enterprises, LLC (appellant) of a Notice of Determination (NOD) dated July 10, 2015. The NOD is for \$8,995.51 in tax, plus applicable interest, for the period January 1, 2011, through December 31, 2013.

On August 10, 2022,<sup>1</sup> appellant timely filed a petition for a rehearing (petition) pursuant to California Code of Regulations, title 18, section 30604 on the basis that there is insufficient evidence to justify the Opinion. OTA concludes that the ground set forth in this petition does not constitute a basis for a new hearing.

OTA may grant a rehearing where one of the following grounds is met and materially affects the substantial rights of the party seeking a rehearing: (1) an irregularity in the proceedings that prevented the fair consideration of the appeal; (2) an accident or surprise that occurred, which ordinary caution could not have prevented; (3) newly discovered, relevant evidence, which the filing party could not have reasonably discovered and provided prior to issuance of the written opinion; (4) insufficient evidence to justify the written opinion; (5) the

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<sup>1</sup> Appellant perfected its petition for rehearing by letter dated September 19, 2022. (See Cal. Code Regs., tit. 18, § 30602.)

opinion is contrary to law; or (6) an error in law that occurred during the appeals hearing or proceeding. (Cal. Code Regs., tit. 18, § 30604(a)(1)-(6); *Appeal of Do*, 2018-OTA-002P; *Appeal of Wilson Development, Inc.* (94-SBE-007) 1994 WL 580654.)

To find that there is an insufficiency of evidence to justify the Opinion, OTA must find that the Panel clearly should have reached a different determination after weighing the evidence in the record, which includes reasonable inferences based on that evidence. (*Appeals of Swat-Fame, Inc., et al.*, 2020-OTA-045P.)

Appellant argues that there were “several errors that were presented during the hearing and that [appellant] was prepared to show via an excel spreadsheet ‘live’ to demonstrate how the errors from [respondent] clearly affected the determination, but such options of showing a ‘live’ screen were not given during the hearing.” While appellant’s argument is vague and does not specifically identify an error with the audit or the audit working papers, it is OTA’s understanding that this argument refers to appellant’s statements regarding respondent’s schedule 1R\_12A-1 in exhibit A, which appellant mentioned during the oral hearing. (See hearing transcript p. 17, lines 10-19.)

Appellant argued that if certain data fields were manipulated an unexpected conclusion would occur. (See hearing transcript pp. 17-18.) Specifically, appellant stated that if it replaced the tax-paid purchases resold amount of \$4,454 with zero, then the overall tax liability would erroneously decrease. However, appellant has not indicated that an actual error exists on the audit working papers as presented in respondent’s exhibit A. In other words, appellant has not established that any of respondent’s actual calculations contain a mathematical error. Furthermore, OTA’s examination of the audit working papers indicates that the data and mathematical computations in the schedules do not have an error. With respect to appellant’s argument regarding schedule 1R\_12A-1, the audited taxable sales for 2011 was listed as \$66,592. This amount was reduced by tax-paid purchases resold of \$4,454, and the difference is correctly stated as \$62,138 ( $\$66,592 - \$4,454$ ). This figure was then used to compute an error rate based on appellant’s reported taxable sales, and that calculation was done correctly. Finally, the error rate was applied to appellant’s reported taxable sales for 2011, which was also done without mathematical error. Because the figures contained in the audit working papers are verifiable and appellant has not specifically pointed to an error in the working papers, there is no

need to manipulate the data in a “live” spreadsheet. Therefore, OTA finds that this argument does not warrant a rehearing.

Appellant’s remaining arguments were presented at the oral hearing (e.g., an inventory adjustment was warranted, errors in the calculations) and addressed in the Opinion. Appellant’s dissatisfaction with the Opinion and attempt to reargue the same issues do not constitute a ground for a rehearing. (See *Appeal of Graham and Smith*, 2018-OTA-154P.)

Based on the foregoing, appellant’s petition is denied.

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

We concur:

DocuSigned by:  
*Keith T. Long*  
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Keith T. Long  
Administrative Law Judge

DocuSigned by:  
*Eddy Y.H. Lam*  
1EAB85DA3324477...  
Eddy Y.H. Lam  
Administrative Law Judge

Date Issued: 1/4/2023