

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
A. VANKAYALA and S. VANKAYALA,) OTA NO. 220410278
)
 APPELLANT.)
)
)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Friday, April 21, 2023

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
A. VANKAYALA and S. VANKAYALA,) OTA NO. 220410278
)
) APPELLANT.)
)
_____)

Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 9:33 a.m. and concluding at 9:46 a.m. on
Friday, April 21, 2023, reported by Ernalyn M.
Alonzo, Hearing Reporter, in and for the
State of California.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

Administrative Law Judge: NATASHA RALSTON

For the Appellant: S. VANKAYALA
A. VANKAYALA

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD

ERIC BROWN
ERIC YADAO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

E X H I B I T S

(Appellant's Exhibits 1-36 were received at page 8.)

(Department's Exhibits A-Q were received at page 8.)

P R E S E N T A T I O N

	<u>PAGE</u>
By Mr. Vankayala	10
BY Mrs. Vankayala	11
By Mr. Brown	12

CLOSING STATEMENT

	<u>PAGE</u>
By Mr. Vankayala	14

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

California; Friday, April 21, 2023

9:33 a.m.

JUDGE RALSTON: We are now on the record in the appeal of Vankayala. This matter is being heard before the Office of Tax Appeals. The Office of Tax Appeals Case Number is 220410278. Today's date is Friday, April 21st, 2023, and the time is approximately 9:33 a.m.

I'm Judge Ralston, and I will be the Administrative Law Judge hearing this case for the Office of Tax Appeals. The Office of Tax Appeals is an independent third party. As I mentioned earlier, this hearing is live streamed to the public and is being recorded. The transcript and the video recording are part of the public record and will be posted on our website at a later date. With that being said, please don't show any confidential documents or information on the screen due to the live stream.

Also present is our stenographer, Ms. Alonzo, who is reporting this hearing verbatim. To ensure we have an accurate record, we ask that everyone speaks one at a time and does not speak over each other. Also, speak clearly and loudly. When needed, the stenographer will stop the hearing process and ask for clarification. After the hearing, the stenographer will produce the official

1 transcript which will be available on the Office of Tax
2 Appeals website. And also, please, when you're not
3 speaking mute your microphone.

4 So I'm going to start with the party
5 introductions and ask you to please state your name and
6 who you represent for the record, starting with the
7 Respondent FTB.

8 MR. BROWN: I'm Eric Brown, California Franchise
9 Tax Board Tax Counsel.

10 MR. YADAO: Good morning. Eric Yadao, Franchise
11 Tax Board Tax Counsel.

12 JUDGE RALSTON: Okay. And now for the
13 Appellants.

14 MR. VANKAYALA: Good morning Sreedhar Vankayala.

15 JUDGE RALSTON: Oh, we did not hear
16 Mrs. Vankayala.

17 MRS. VANKAYALA: [INAUDIBLE]

18 JUDGE RALSTON: Again, we're having trouble
19 hearing you. So if you need to speak, we might need you
20 to switch places when it's your turn.

21 MRS. VANKAYALA: I'm Aparna Vankayala.

22 JUDGE RALSTON: Thank you. We heard that.

23 Okay. So the prehearing conference in this
24 matter was held on March 30th, 2023. And as confirmed at
25 the prehearing conference there's one issue in this case,

1 and that is whether Appellants have established reasonable
2 cause to abate the demand penalty.

3 For witnesses, the Appellants stated that they
4 both intend to testify under oath. Is that still correct?

5 MR. VANKAYALA: Yes, ma'am.

6 MRS. VANKAYALA: Yes.

7 JUDGE RALSTON: And FTB indicated that they have
8 no objection to Appellants testifying under oath. Is that
9 still correct?

10 MR. BROWN: That is correct.

11 JUDGE RALSTON: Thank you. And FTB does not
12 intend to call any witnesses; is that correct?

13 MR. BROWN: That's also correct. Yes.

14 JUDGE RALSTON: Thank you.

15 Moving on to exhibits. Appellants submitted
16 Exhibits 1 through 36, and then they submitted the exhibit
17 index after the prehearing conference.

18 Mr. Brown, did you have a chance to review the
19 exhibit list and their exhibits, and did you have any
20 objections?

21 MR. BROWN: I did, and I have no objections.

22 JUDGE RALSTON: Okay. Thank you.

23 So Appellants Exhibits 1 through 36 are admitted
24 without objection.

25 ///

1 (Appellant's Exhibits 1-36 were received
2 in evidence by the Administrative Law Judge.)
3 And Respondent has submitted Exhibits A through
4 Q. Appellant did not have any objections to Respondent's
5 exhibits.

6 Is that still the case?

7 MR. VANKAYALA: Yes. Yes, ma'am.

8 JUDGE RALSTON: Thank you.

9 Respondent's Exhibits A through Q are admitted
10 without objection.

11 (Department's Exhibits A-Q were received in
12 evidence by the Administrative Law Judge.)

13 For the order of the hearing, Appellant you will
14 go first, and you will have approximately 10 minutes for
15 your opening presentation and witness testimony. Before
16 you begin -- and I'll let you know when it's time to
17 begin. But before you begin, I'll have you both sworn in
18 so that you can testify under oath. I may have questions
19 for you during or after your presentation. And because
20 you're testifying FTB may also have questions for you.

21 After your opening presentation, Respondent will
22 also have approximately 10 minutes to present their case.
23 The same goes that I may have questions for them during or
24 after their presentation. And then the Appellants, you,
25 will again have 5 minutes for rebuttal. And again, we may

1 have questions, and that's the order of the hearing.

2 So does anyone have questions before we move on
3 to opening presentations?

4 MR. BROWN: No questions.

5 JUDGE RALSTON: It looks like there are no
6 questions, so moving on.

7 So Mr. and Mrs. Vankayala, I'm going to swear you
8 in now so you can proceed with your testimony. So if you
9 both could both raise your right hands.

10

11 S. VANKAYALA,

12 produced as a witness, and having been first duly sworn by
13 the Administrative Law Judge, was examined and testified
14 as follows:

15

16 A. VANKAYALA,

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

20

21 JUDGE RALSTON: Just to be clear for the record,
22 both Appellants indicated yes, and we are ready to proceed
23 with Appellants' opening presentation. You have
24 approximately 10 minutes. So please begin when you're
25 ready.

1 MR. VANKAYALA: What are we supposed to do,
2 ma'am? We submitted the documents due. You want me to go
3 through the documents or what's that?

4 JUDGE RALSTON: Well, you have 10 minutes for
5 presentation. So if there's -- so, yes, we have the
6 documents, and we have reviewed them and will review them
7 as part of the decision. But if you wanted to make an
8 oral presentation at this time, you have 10 minutes.

9

10 PRESENTATION

11 MR. VANKAYALA: So basically, ma'am, we were
12 informed like the past three years' time for all these
13 things and -- by the accountant. And next we filed to him
14 when it went like, you know, he said like, you know, and
15 Covid was down. And then finally my wife's father --
16 that's my father-in-law -- died. We were India, and all
17 these things happened.

18 We're sorry, but it's -- I mean, like, you know,
19 we tried our best to file and, you know, some
20 communication went wrong or something. They haven't
21 received and some e-filing did not work. And finally, you
22 know, like we got -- like, you know, demand penalty and
23 collection fee and interest. Please waiver. Sorry about
24 it.

25 You want to say?

1 MRS. VANKAYALA: [INAUDIBLE]

2 JUDGE RALSTON: Oh, yeah. We can't hear you. If

3 you two could switch places, please. Thank you.

4 MRS. VANKAYALA: The thing that's pretty much we

5 wanted to just, you know, apologize that we couldn't do on

6 time. But this is our, like, under, like, very bad

7 circumstances. We couldn't do it.

8 MR. VANKAYALA: Accountant says --

9 MRS. VANKAYALA: Yeah. So accountant also had

10 like some trouble with the accountant we had. He said he

11 filed it, but it did not -- you guys did not receive on

12 time. And -- yeah. Sorry.

13 JUDGE RALSTON: I have a question. So your

14 accountant said that he filed the return or the response

15 to the demand from FTB?

16 MR. VANKAYALA: Oh, first he said he filed,

17 ma'am. And then he said it would not accept it because it

18 was not the number. And then he said like, you know, we

19 have to do the paper filing. And then finally when all

20 these things happening we were in India. It was very

21 tough for us to communicate, and we even explain all to

22 Elizabeth Pecherny from FTB all these things.

23 And then when we come here to do the paper

24 filing, we do the signature portion. And for that, you

25 know, I came first, and then my wife was still in India.

1 So we have to wait for them to come here. And then I got
2 rejected because we did not submit the documents. Again,
3 we have to go through the item renewal. All these things
4 kind of made a little bit delayed in the process, ma'am.

5 JUDGE RALSTON: Okay. Thank you. Does this
6 conclude your opening presentation?

7 MR. VANKAYALA: Yes, ma'am.

8 MRS. VANKAYALA: Yes, ma'am.

9 JUDGE RALSTON: Thank you.

10 Mr. Brown, did you have any questions for either
11 Appellant?

12 MR. BROWN: No questions.

13 JUDGE RALSTON: Okay. Then we're going to move
14 on to Respondent's opening presentation.

15 You have 10 minutes. Please begin when you're
16 ready.

17 MR. BROWN: Thank you, Judge Ralston.

18

19 PRESENTATION

20 MR. BROWN: Good morning. I'm Eric Brown Tax
21 Counsel with the Franchise Tax Board, and with me is Eric
22 Yadao also Tax Counsel with the Franchise Tax Board.

23 FTB's denial of Appellants' claim for refund
24 should be sustained because Appellants have not shown
25 reasonable cause to abate the demand penalty. Appellants'

1 2017 tax return was due April 15, 2018. It wasn't until a
2 year and a half after that that the FTB sent its demand
3 for tax return. After no response to the demand from
4 Appellants, FTB sent its NPA in late February 2020, which
5 included a demand penalty. The demand penalty for the
6 2017 tax year was based on Appellants' history of their
7 failure to file a tax return for the 2016 tax year, which
8 also resulted in FTB issuing a Notice of Proposed
9 Assessment in which the FTB estimated Appellants' income
10 and tax liability. Copies of the 2016 request for tax
11 return and NPA are attached to exhibits to Respondent's
12 brief.

13 On May 6th, 2021, over three years after their
14 tax return and tax payment was due, Appellants filed their
15 tax return seeking a refund of overpaid tax. On May 15,
16 2021, FTB issued a refund to Appellants. Appellants have
17 failed to show reasonable cause to abate the demand
18 penalty. They cited a number of unfortunate personal
19 circumstances that befell them as the reason why they were
20 unable to file their 2017 tax return in time to avoid
21 imposition of the demand penalty.

22 It is important to note that all of those
23 circumstances occurred after the February 27, 2020,
24 issuance of FTB's proposed assessment, and so no
25 circumstance that happened after then could have possibly

1 had any bearing on their ability to avoid imposition of
2 the demand penalty. Appellants have not indicated there
3 were any circumstances that happened prior to February 27,
4 2020, that would have affected their ability to file a
5 2017 tax return.

6 Accordingly, since Appellants have failed to show
7 reasonable cause, the demand penalty should not be abated,
8 and FTB's action denying their claim for refund should be
9 sustained.

10 I would be happy to respond to any questions the
11 Panel or Judge Ralston may have.

12 JUDGE RALSTON: Okay. Thank you.

13 So Mr. and Mrs. Vankayala, did you have a
14 response to FTB's presentation?
15

16 CLOSING STATEMENT

17 MR. VANKAYALA: No, ma'am, other than that point
18 repeating my accountant didn't send in time. I don't have
19 anything else to say, ma'am. And we were communicating
20 for every letter we get. We called and informed. And
21 Covid came, and we all suffered with Covid. So I mean,
22 anyway those are the -- yeah, that's it, ma'am.

23 JUDGE RALSTON: Okay. Thank you.

24 Just checking over my notes. Looks like we're
25 ready to conclude this hearing. So I want to thank

1 everyone for attending. Today's hearing in the Appeal of
2 Vankayala is now adjourned, and the record is closed.

3 So we will send you a written opinion with our
4 decision within 100 days. Thank you everyone again for
5 attending, and the next hearing will resume at 1:00 p.m.

6 (Proceedings adjourned at 9:46 a.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 1st day
of May, 2023.

ERNALYN M. ALONZO
HEARING REPORTER