OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **GUZIK TECHNICAL ENTERPRISES**	OTA Case No. 21068100 CDTFA Case ID: 1-001-336

OPINION

Representing the Parties:

For Appellant: Brian Wiggins, Representative

For Respondent: Mari Guzman, Attorney

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 6901, Guzik Technical Enterprises (appellant) appeals a decision issued by respondent California Department of Tax and Fee Administration (CDTFA)[1] denying appellant's claim for refund of $171,461.89 for the period July1, 2014, through December 31, 2016.[2]

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellant's claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant, a California corporation, is a manufacturer and retailer of electronic disk drive testing equipment located in Mountain View, California. Appellant's products are used in the research and development (R&D) of hard disk drives and drive components.

[1] Sales and use taxes were formerly administered by the State Board of Equalization (board). In 2017, functions of the board relevant to this case were transferred to CDTFA. (Gov. Code, § 15570.22.) For ease of reference, when this Opinion refers to events that occurred before July 1, 2017, "CDTFA" shall refer to the board.

[2] Appellant's Request for Appeal amended the period at issue from July 1, 2014, through March 31, 2016, to October 1, 2014, through March 31, 2016, and the corresponding claim amount from $171,461.89 to $148,164.63.

2. During the period July 2014 through December 2016, appellant made sales to the subsidiaries of Western Digital Corporation (WDC), including the following: Western Digital (Fremont), LLC (WDF); Western Digital Media, LLC (WDM); and Western Digital Technologies (WDT).
3. Appellant filed a claim for refund dated November 6, 2017, on behalf of WDF, which CDTFA received on November 13, 2017; the claim was for $155,452.69 for the period July 1, 2014, through December 31, 2016, based on a claimed partial exemption for the sale of qualified tangible personal property used for manufacturing, processing, refining, fabricating, or recycling. With the claim for refund, appellant attached a signed partial exemption certificate indicating that the tangible personal property would be used primarily for manufacturing, processing, refining, fabricating, or recycling, issued by WDF.[3]
4. Appellant filed a claim for refund dated January 23, 2018, on behalf of WDM, which CDTFA received on January 31, 2018; the claim was for $297,874.09 for the period October 1, 2014, through December 31, 2016, based on a claimed partial exemption for R&D equipment. With the claim for refund, appellant attached a signed partial exemption certificate for R&D equipment, issued by WDM.
5. Appellant filed a claim for refund dated January 30, 2018, on behalf of WDT, which CDTFA received on February 5, 2018; the claim was for $291,498 for the period October 1, 2014, through December 31, 2016, based on a claimed partial exemption for R&D equipment. With the claim for refund, appellant attached a signed partial exemption certificate for R&D equipment, issued by WDT.
6. Email correspondence during the period March 12, 2019, through March 20, 2019, reveals requests by CDTFA for appellant to provide refund schedules and invoices for WDF, WDM, and WDT. On March 20, 2019, appellant confirmed that it would send the requested documentation to CDTFA. Additionally, in the March 20, 2019 email,

[3] On appeal to OTA, and throughout CDTFA's appeals process, appellant asserted that the claims for refund were all made based on a partial exemption for R&D. Similarly, CDTFA appears to have accepted that the claims for refund were each based on a partial exemption for R&D. For example, CDTFA's decision states "WDC notified [appellant] that the items purchased by WDF, WDM, and WDT had been purchased for use in R&D." Similarly, the decision states that "[CDTFA] investigated each claim, confirmed that each customer (i.e., WDF, WDM, and WDT) was a qualified purchaser engaged in R&D, and ultimately…issued to Claimant a refund…" Thus, it appears that WDF made a clerical error in completing the partial exemption certificate based on something other than R&D. However, this apparent error does not affect the outcome of the case.

appellant wrote "[a]lso, we wanted to notify you that we are going to submit an additional claim with this vendor for another Western Digital entity, HGST, Inc."

7. On May 1, 2019,[4] appellant filed a claim for refund on behalf of HGST of $248,841.65 for the period July 1, 2014, through December 31, 2016, based on a claimed partial exemption for R&D equipment (the HGST claim). With the claim for refund, appellant attached a signed partial exemption certificate for tangible purchase property used for the purpose of manufacturing, processing, refining, fabricating or recycling, issued by HGST. Appellant also provided a refund schedule detailing the transactions within the claimed refund.
8. CDTFA consolidated appellant's claims for refund for WDF, WDM, and WDT and issued a refund of $727,912 (rounded) on February 21, 2020.
9. On March 3, 2020, CDTFA partially granted and partially denied appellant's HGST claim. Specifically, CDTFA agreed to refund $76,135 (rounded) for sales tax reimbursement remitted for the second quarter of 2016 (2Q16) through 4Q16. However, CDTFA did not issue any refund for the period 3Q14 through 1Q16.
10. On May 6, 2021, CDTFA issued a decision denying appellant's claim for refund for 3Q14 through 1Q16 based on the expiration of the statute of limitations.
11. This timely appeal followed.

DISCUSSION

R&TC section 6901 provides that CDTFA may refund any amount, penalty, or interest that has been paid more than once or that has been erroneously or illegally collected or computed. In order to obtain a refund of an overpayment, a taxpayer must file a timely claim for refund. (R&TC, § 6902(a).) A claim for refund is timely if filed within three years from the last day of the month following the close of the quarterly periods for which the overpayment was made, or if filed within six months after the date a determination becomes final if the overpayment was made pursuant to that determination, or within six months from the date of overpayment. (*Ibid*.) CDTFA may also grant a refund for any period for which a waiver is given under R&TC section 6488. (R&TC, § 6902(b).) Failure to file a claim for refund within

[4] Appellant's claim for refund is dated April 26, 2019. Appellant mailed the claim for refund via certified mail with the United States Postal Service (USPS). The postmark indicates that the claim for refund was mailed on May 1, 2019.

the applicable time limits constitutes a waiver of any demand against the state for the overpayment. (R&TC, § 6905.)

Every claim for refund must be in writing, state the specific grounds or reasons upon which the claim is founded, be signed by the taxpayer, and identify the reporting period in which the overpayment occurred, the amount of the refund being claimed (if known), and the contact information of the taxpayer or the taxpayer's representative. (R&TC, § 6904; Cal. Code Regs., tit. 18, § 35036.) If additional documentary evidence is needed to verify and approve a claim, CDTFA will contact the taxpayer and request such information; failure to provide such information upon request may result in a denial of the claim. (Cal. Code Regs., tit. 18, § 35041.) Courts have long held that a claim frames and restricts the issues to be litigated, and a court is without jurisdiction to consider grounds not set forth in the claim. (*Preston v. State Bd. of Equalization* (2001) 25 Cal.4th 197, 206; *American Alliance Ins. Co. v. State Bd. of Equalization* (1982) 134 Cal.App.3d 601, 609; *King v. State Bd. of Equalization* (1972) 22 Cal.App.3d 1006, 1015.)

Here, HGST was required to file a claim for refund no more than three years from the last day of the month following the close of the quarter in which the overpayment was made. Thus, for 1Q16 (the last quarter in dispute), the HGST claim was due on or before April 30, 2019. Appellant's claim was not filed until May 1, 2019, which is after the expiration of the statute of limitations for this claim for refund. As such, the HGST claim was not timely for 1Q16 or any periods prior to that quarter. However, appellant contends that the HGST claim should be considered timely because appellant "already had open claims for refund filed on 11/2/2017[5] and 1/30/2018[6] that covered the same refund period and basis." On appeal to CDTFA, appellant argued that form CDTFA-101, Claim for Refund or Credit (CDTFA-101) allows a taxpayer to leave the claim amount blank at the time of filing in order to recover additional overpayments. Appellant also argued that it informed CDTFA of the HGST claim in the March 20, 2019 email. Thus, based on all of these contentions, appellant argued that it should be allowed to add the HGST claim amount to the other, timely, claims for refund.

[5] This refers to the first claim for refund filed on behalf of WDF, which CDTFA received on November 13, 2017.

[6] This refers to the second claim for refund filed on behalf of WDM, which CDTFA received on January 31, 2018.

Initially, OTA notes that there is no dispute that appellant filed claims for refund in November 2017 and January 2018. In each case, appellant identified WDF, WDM, or WDT. Appellant also claimed specific amounts for refund rather than leaving the claim amounts blank. There is no mention of HGST in any of these claims. Moreover, rather than amending the November 2017 claim, appellant elected to file separate and stand-alone claims dated January 23, 2018, and January 30, 2018, each identifying different customers and claiming specific dollar amounts without overlapping or referencing the earlier claims. Consistent with its earlier practice, appellant filed the HGST claim identifying HGST as the customer whose transactions are at issue with a specific claim amount of $248,842 (rounded). None of these claims for refund, including the HGST claim, purports to be an amendment of the original claim filed on November 13, 2017, and nothing in the record supports such a finding.

As to whether appellant's March 20, 2019 email should be considered a claim for refund, or alternatively tolled the statute of limitations to file the HGST claim, the law does not support appellant's position. It has been a long-standing policy of courts to liberally construe claims for refund in favor of taxpayers such that a claim is considered adequate if the tax agency may know "or have some reasonable means of ascertaining therefrom what the claim of the [taxpayer] is, to the end that such claims may be investigated by the assessing authorities prior to the hearing." (*J.H. McKnight Ranch, Inc. v. Franchise Tax Bd.* (2003) 110 Cal.App.4th 978, 988 (citing *Focus Cable of Oakland, Inc. v. County of Alameda* (1985) 173 Cal.App.3d 519, 526-527).) However, it has also been held that "claims statutes must be satisfied even in face of the public entity's actual knowledge of the circumstances surrounding the claim. Such knowledge—standing alone—constitutes neither substantial compliance nor basis for estoppel." (*Shiseido Cosmetics (America) Ltd. v. Franchise Tax Bd.* (1991) 235 Cal.App.3d 478, 492 (citing *Mercury Casualty Co. v. State Bd. of Equalization* (1986) 179 Cal.App.3d 34, 40).)

Appellant's March 20, 2019 email presumably provided notice to CDTFA that appellant would be filing another claim for refund on the same basis as the earlier consolidated claims for refund, given that the notice was provided in the context of a discussion relating to the consolidated claims for refund. However, other than the implied legal basis, the customer whose transactions would form the basis of the HGST claim, and the contact information of appellant's representative, the email fails to set forth the remaining elements of a properly filed claim for refund. That is, the email does not provide the reporting period at issue or the amount of the

refund claimed, nor is it signed by appellant. (See R&TC, § 6904; Cal. Code Regs., tit. 18, § 35036.) Hence, appellant's March 20, 2019 email fails to satisfy the statutory requirements for filing a valid claim for refund.

Consequently, OTA concludes that the HGST claim was not timely for the period 3Q14 through 1Q16.

HOLDING

Appellant's claim for refund is barred by the statute of limitations.

DISPOSITION

CDTFA's action denying appellant's claim for refund is sustained.

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Keith T. Long
Administrative Law Judge

We concur:

DocuSigned by:
0CC6C6ACCC6A44D...

Teresa A. Stanley
Administrative Law Judge

DocuSigned by:
Suzanne B. Brown
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Suzanne B. Brown
Administrative Law Judge

Date Issued: 12/5/2023