

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
P. GOEL and N. GOEL,) OTA NO. 230212526
)
 APPELLANTS.)
)
)

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Wednesday, February 14, 2024

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Proceedings,
taken at 12900 Park Plaza Dr., Suite 300,
Cerritos, California, 90703, commencing at
1:00 p.m. and concluding at 1:27 p.m. on
Wednesday, February 14, 2024, reported by
Ernalyn M. Alonzo, Hearing Reporter, in and
for the State of California.

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APPEARANCES:

Panel Lead: ALJ TERESA STANLEY

Panel Members: ALJ LAUREN KATAGIHARA
ALJ ASAF KLETTER

For the Appellant: P. GOEL
N. GOEL

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD

SARAH FASSETT
JACLYN ZUMAETA

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-7 were received at page 7.)
(Department's Exhibits A-H were received at page 7.)

OPENING STATEMENT

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By Mr. and Mrs. Goel	17

1 Cerritos, California; Wednesday, February 14, 2024

2 1:00 p.m.

3

4 JUDGE STANLEY: We're going to go on the record
5 now.

6 Once again, this is Appeal of Goel, Case No.
7 230212526. The date is February 14th, 2024, and the time
8 is 1:00 p.m. The location is Cerritos, California.

9 Again, on the record, I'm Judge Teresa Stanley,
10 and I have Judge Katagihara and Judge Kletter with me.

11 I'm going to ask that the parties identify
12 themselves and who they represent, if you're a
13 representative.

14 Let's start with Appellants. Please introduce
15 yourselves.

16 MR. GOEL: Hi. My name is Pankaj Goel, and this
17 is my wife Nishtha Goel.

18 MRS. GOEL: Nishtha Goel.

19 JUDGE STANLEY: Thank you.

20 And then Franchise Tax Board.

21 MS. FASSETT: Sarah Fassett for the Franchise Tax
22 Board.

23 MS. ZUMAETA: And Jackie Zumaeta for the
24 Franchise Tax Board.

25 JUDGE STANLEY: Okay. Just a couple of

1 preliminary matters. The Office of Tax Appeals is
2 independent of the Franchise Tax Board and any other tax
3 agency. We're not a court, but we're an independent
4 appeals body that is staffed with its own tax experts.

5 The only evidence that we have in the Office of
6 Tax Appeals' record is what was submitted in this appeal,
7 and that would have been included in the electronic
8 hearing binder that was sent to you.

9 The proceedings are being live streamed on
10 YouTube, and our stenographer Ms. Alonzo is recording the
11 proceeding.

12 The issue in this case is whether Appellants have
13 established reasonable cause to abate the late-filing
14 penalty imposed for taxable year 2019.

15 Do you agree with that, Mr. Goel?

16 MR. GOEL: Yes.

17 JUDGE STANLEY: And Ms. Fassett?

18 MS. FASSETT: Yes. Thank you.

19 JUDGE STANLEY: And I do want to note for the
20 record -- and Ms. Fassett can correct me if I am wrong --
21 but we talked about in the prehearing conference that when
22 the appeal is final, the Franchise Tax Board agrees to
23 refund \$309.01 in interest due to an error in applying
24 Mr. and Mrs. Goel's 2018 and 2019 payments.

25 Is that correct, Ms. Fassett?

1 MS. FASSETT: That's correct. Thank you.

2 JUDGE STANLEY: Thank you.

3 Okay. The --

4 Do you have a question?

5 MRS. GOEL: No.

6 JUDGE STANLEY: Okay. Appellants' exhibits --
7 Appellants submitted seven exhibits, which the Office of
8 Tax Appeals marked as Exhibits 1 through 7. And the
9 Franchise Tax Board did not object to those exhibits, so
10 those will be admitted.

11 (Appellant's Exhibits 1-7 were received
12 in evidence by the Administrative Law Judge.)

13 JUDGE STANLEY: The Franchise Tax Board
14 identified Exhibits A through H. And Appellants did not
15 object to those exhibits, so they will also be admitted
16 without objection.

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

19 JUDGE STANLEY: So we have -- I understand that
20 both of you wish to testify today.

21 MR. GOEL: Yes.

22 MRS. GOEL: Yes.

23 JUDGE STANLEY: Okay. Can you please raise your
24 right hand.

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P. GOEL,

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

N. GOEL,

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

JUDGE STANLEY: Okay. You requested 30 minutes for a presentation, so you can proceed as you wish, have either one of you talk first. Just present your case to the whole Panel. Okay. You can proceed when ready.

PRESENTATION

MR. GOEL: Thank you. I'd like to first thank the OTA staff and the Honorable Judges to give me the opportunity to --

JUDGE STANLEY: Is your microphone on? Do you have the green button on there?

MRS. GOEL: No. We don't see it.

JUDGE STANLEY: There --

MR. GOEL: Yeah.

JUDGE STANLEY: Now we're good.

1 MR. GOEL: Should I repeat myself.

2 JUDGE STANLEY: Yes.

3 MR. GOEL: I apologize.

4 I would like to first thank the OTA staff and the
5 Judges and attorneys here for giving us the opportunity to
6 present our case and listening to our rational on why we
7 are trying to debate this matter here.

8 Now, I had sent in a reply brief dated June 1 as
9 a part of my case history here, and I do not see that in
10 the binder of exhibits. But I have a copy here, and I'll
11 read from that. And if you don't have that exhibit -- I
12 mean, that letter --

13 MRS. GOEL: Document.

14 MR. GOEL: -- reply brief, I have copies for you
15 here and you can kind of listen, and it'll be record for
16 you. So should I first give you my copies?

17 JUDGE STANLEY: We do have that. We don't
18 include that in an exhibit binder because a brief tends to
19 be your arguments instead of actual evidence --

20 MR. GOEL: Right.

21 JUDGE STANLEY: -- that backs your arguments. So
22 the Judges have read that.

23 MR. GOEL: Okay.

24 JUDGE STANLEY: So you can read from if you would
25 like.

1 MR. GOEL: Yes. Thank you.

2 So let me start. I would like to -- we with
3 would like to appeal the delinquent filing penalty in this
4 particular matter. And we had filed an automatic
5 extension for filing our 2019 taxes, Form 3519, along with
6 a check for \$3,000 on April 10th. And this is in
7 Exhibit 1 and 2 in the binder. So in the binder, if you
8 look at the Exhibit 1, it shows the check made out to
9 Franchise Tax Board for \$3,000 on April 10th. And below
10 that is the payment for automatic extension for
11 individuals for the same filing year.

12 Now, we had filed our 2019 taxes on December 14th
13 per El Cid Bookkeeping Accounting Firm's employee
14 Mr. George Padilla's compilation. And this is on my
15 exhibit, on this Exhibit 2, where I see -- you can see the
16 date 12/14 at the bottom right and the company's name El
17 Cid for authorizing the electronic tax payment on this.
18 And this is in Exhibit 2 in this binder here. And we
19 mailed our calculated tax liability of \$9,301 with our
20 returns. These were filed before the January 15th, 2021,
21 deadline.

22 Now, Mr. Padilla, our accounting person, had been
23 filing our tax returns for the past several years. And we
24 had provided him all our 2019 tax information, including
25 earnings and deductions, on September 2020 for filing our

1 2019 taxes. We were on time to provide him the relevant
2 information. Mr. Padilla, our accountant, and his family
3 were going through severe COVID infections in the fall of
4 2020. He had informed us that he also got some intense
5 eye infection during this time period due to which he
6 alleged that his judgment and ability to perform
7 accounting tasks were severely diminished.

8 His ability -- availability to work on our tax
9 returns was also comprised. Mr. Padilla was finally able
10 to complete and file our 2019 taxes on December 14, 2020.
11 But he had made gross errors in our tax returns by
12 neglecting to include capital gain taxes, which resulted
13 in an audit. And this audit resulted in additional
14 capital gains tax liability of \$60,582, which we also paid
15 in full on time.

16 The FTB, however, assessed a delinquent filing
17 penalty of \$15,206.50 and an interest payment of
18 \$3,849.16, total of which is \$19,055.66. And we also paid
19 this amount in full. So if you look at Exhibit 3 of the
20 binder, you'll find these numbers here \$15,206 and \$3,849,
21 and these were paid, I mean, by us. And the total amount
22 we owed them was \$32,403.74. So if you go on Exhibit 4,
23 on Exhibit 4 the top part shows the letter we got from FTB
24 to make this payment, and below that is a check that we
25 had mailed out for this amount. So were complying, and we

1 paid them in full on time.

2 Mr. Padilla filed our 2019 returns incorrectly
3 and erroneously. Since then Mr. Padilla has left his
4 accounting firm and has not been reachable, and we're
5 unable to contact him.

6 MRS. GOEL: Well, he was fired actually.

7 MR. GOEL: We contacted his employer, El Cid, and
8 were informed that he was no longer employed there. I'm
9 an engineer working for a U.S. defense and aerospace
10 engineering firm for over 30 years. We've always filed
11 our tax returns on time and made all of our payments in
12 full. We have never been delinquent or late on taxes, and
13 we have never been also audited on tax returns. And we
14 have been doing this for the last 40 years; taxes paid in
15 full, on time, and no delinquencies, no fines. This
16 payment is very excessive and has imposed a hardship on
17 our finances.

18 We would like to request the FTB OTA that due to
19 these extenuating circumstances, which were totally beyond
20 our control, this amount of \$19,055.66 be abated and be
21 refunded this entire amount. So this is my plea that we
22 did everything by the book, got the returns made, took
23 them to the accountant. He ran our taxes, told us what to
24 pay, how much to pay. We paid that. And then when we
25 were audited, we were asked to pay extra amount. Even

1 that we did.

2 So I'm trying to plea and make a plea this is not
3 correct because it's not fair or right. This is no fault
4 of ours. And we did try to call the company where he
5 worked, El Cid, and he can't be reached. So we are at a
6 point here that this amount of money that we had to pay,
7 \$19,000, is very excessive. And I should not be
8 penalized. We should not be penalized for doing our job,
9 for being honest about the whole thing and doing the right
10 thing.

11 So this is my plea, and I'd like to hear from the
12 Judges, if you will.

13 JUDGE STANLEY: Thank you. We are here to listen
14 to you and the other party in the case to state your case.
15 So we won't be speaking with you. What we'll do is after
16 the hearing we're going to get together between ourselves
17 and discuss the matter, and then we'll make a written
18 decision that we'll send out to you within 100 days from
19 today.

20 MR. GOEL: Okay. So does anybody have any
21 questions for us?

22 JUDGE STANLEY: Well, that's my job.

23 MR. GOEL: Oh. I'm sorry. I apologize.

24 JUDGE STANLEY: I was going to ask if Ms. Goel
25 has anything to add.

1 MRS. GOEL: I do not. My husband is going to
2 speak. He's the engineer, and I also am suffering from a
3 really bad cold. So I'll let him takeover. Thank you,
4 though.

5 JUDGE STANLEY: Okay. So is that all you have to
6 present at first? Like I said at the prehearing
7 conference, I'm going to give you a couple of minutes
8 after the Franchise Tax Board speaks so that you can
9 respond to what they say.

10 MR. GOEL: Right. This is all I have for this
11 discussion today.

12 JUDGE STANLEY: Okay.

13 Then Ms. Fassett, do you have any questions for
14 the Goels?

15 MS. FASSETT: I do not. Thank you,
16 Judge Stanley.

17 JUDGE STANLEY: It didn't sound like your
18 microphone was on.

19 MS. FASSETT: It was, but I'm sorry. I don't
20 have any questions. Thank you.

21 JUDGE STANLEY: Okay. I think that microphone
22 you may need to get really close.

23 Judge Katagihara, do you have any questions?

24 JUDGE KATAGIHARA: No questions at this time.

25 JUDGE STANLEY: Judge Kletter?

1 JUDGE KLETTER: This is Judge Kletter. No
2 questions. Thank you.

3 JUDGE STANLEY: Okay. And I don't have any
4 questions at this point too. So we'll turn it over to
5 Ms. Fassett.

6 You can proceed when you're ready.

7 MS. FASSETT: Thank you.

8

9 PRESENTATION

10 MS. FASSETT: Good afternoon. My name is Sarah
11 Fassett and I, along with Jaclyn Zumaeta, represent the
12 Franchise Tax Board or FTB in this appeal.

13 As already been stated, there's only one issue,
14 and that is whether Appellants have established that their
15 untimely filing of their 2019 tax return was due to
16 reasonable cause such as they are entitled to abatement
17 and refund of the late-filing penalty imposed for the tax
18 year at issue.

19 Appellants bear the burden of establishing the
20 untimely the filing of their tax return was due to
21 reasonable cause and not willful neglect, and they have
22 not met that burden. None of the Appellants' -- excuse
23 me.

24 JUDGE STANLEY: Sarah --

25 MS. FASSETT: YES.

1 JUDGE STANLEY: I'm sorry. Ms. Fassett, could
2 you slow down a little bit.

3 MS. FASSETT: Sure.

4 None of the Appellants' arguments or the
5 information presented by Appellants establish that their
6 failure to timely file was due to reasonable cause. Here,
7 Appellants argue that their return was filed late and the
8 additional assessment of tax was due to multiple errors
9 and inconsistencies made by their accountant. However,
10 Appellants have a duty to review their return, even when
11 prepared by an agent. They claim their return was timely
12 filed and that any delay was due to the negligence of
13 their accountant. Appellants also argue that they were
14 misled by their tax preparer but have failed to explain or
15 show how they were misled with documentation or other
16 credible or competent evidence.

17 Appellants have also failed to provide any
18 evidence showing that their return was timely filed in
19 December 2020, such as an electronic filing transmission
20 record or acceptance acknowledgment. Further, Appellants
21 have a personal nondelegable duty to file their tax return
22 by the due date. And it is well established that reliance
23 on an agent, such as an accountant, to file their tax
24 return by the due date is not reasonable cause.

25 And, again, Appellants have not offered any

1 supporting documentation concerning their efforts, if any,
2 to ensure that their return was timely filed or
3 communications made with their preparer.

4 Therefore, on the facts and evidence in the
5 record and because Appellants have not yet met their
6 burden, Franchise Tax Board respectfully request you
7 sustain its position.

8 I'm happy to address any questions. Thank you.

9 JUDGE STANLEY: Okay. Thank you, Ms. Fassett.

10 Judge Katagihara, do you have any questions for
11 the Franchise Tax Board?

12 JUDGE KATAGIHARA: No questions.

13 JUDGE STANLEY: And Judge Kletter?

14 JUDGE KLETTER: I do not have any questions.
15 Thank you.

16 JUDGE STANLEY: Okay. And I also do not have
17 questions. So at this time, Mr. Goel, you can feel free
18 to respond to what the Franchise Tax Board says.

19

20 CLOSING STATEMENT

21 MR. GOEL: In respond to the FTB, if you go on
22 Exhibit 2 of the binder, the taxes were filed on
23 12/14/2020. This electronic California e-file signature
24 authorization for individuals. So we did file our taxes
25 on time on December 14th.

1 And secondly, I'm not an accounting personnel. I
2 have no accounting background. We depended on our
3 accountant and this accounting firm to do our taxes for
4 us. And our task, our job was to provide all relevant
5 documents showing our income deductions and trusting our
6 accountant to do that for us. We have by no means are
7 able to verify his calculations. All we did was write a
8 check out for the amount that was told to us.

9 Now in hindsight he made mistakes. He was sick,
10 not competent. I can't discuss that, but he made gross
11 errors for which we are paying. We did everything right
12 by the book. We paid all the taxes on time, and we've
13 been penalized for a huge amount of money that is for us,
14 \$19,000. And I think it's wrong, and it's unfair that we
15 have to pay this amount. We already paid this, so I would
16 like to ask the Judges and the FTB to look at it from our
17 point of view and refund that.

18 MRS. GOEL: And just to add to that, I also
19 reached out to George Padilla. It was not just my
20 husband. I also emailed him numerous times. I tried to
21 call. He has about three or four numbers. And I also
22 tried to call him at various times to try to get ahold of
23 him. He was not responding in any way.

24 MR. GOEL: Can I make one more point?

25 JUDGE STANLEY: Sure.

1 MR. GOEL: I do not know how this will go down.
2 I would like to also make a request that if the Court
3 could at least refund me the penalty part of this payment,
4 which is \$3,849.16. So I would like to ask the Court to
5 refund me the entire amount. But somehow in case you
6 think it's incorrect or whatever reason, at least -- at
7 least give me a partial refund back. We'd be okay with
8 that. Or at least refund us the -- the interest payment
9 on this. That is also pretty excessive.

10 MRS. GOEL: I think all we're asking is that you
11 guys be fair to us also and understand our predicament.
12 We, as Pankaj has alluded to, we have never been late in
13 our taxes or anything like that. And he being an
14 engineer, he's very meticulous about keeping records and
15 so on. And this particular, whatever one might call him,
16 he sort of took us for a ride. We kept on waiting for
17 him. He was sick. He had some ear or eye infection or
18 something. It went on and on, and we tried to work with
19 him because we'd been with him for many years. So it was
20 our naivety that we were continuing to engage with him.
21 But at this point, I think what we're looking for is some
22 fairness on your parts.

23 MR. GOEL: Like my wife said, we did everything
24 by the book on time. And if you look at our past history
25 also for the last 40-some years, there's never been a

1 delinquent tax returns filing or anything wrong. No
2 audits. Nothing. It's a clean slate. And this too, our
3 intention -- our intention was to do it on time, and we
4 did it on time. But then for reasons beyond our control,
5 the person helping us out, the professional accountant, he
6 goofed up. And why should we to pay for not -- no fault
7 of ours.

8 So I think, like my wife said, I believe it's
9 unreasonable. It's incorrect and unfair to penalize us
10 for something which we have not done, which we shouldn't
11 be blamed for.

12 That's all I have, Your Honor.

13 JUDGE STANLEY: Okay. Ms. Fassett, do you have
14 any questions?

15 MS. FASSETT: No questions. Thank you.

16 JUDGE STANLEY: Okay. We got a little bit of
17 extra testimony from Mrs. Goel at this time.

18 Judge Katagihara, do you have questions?

19 JUDGE KATAGIHARA: I do have a question.

20 Mr. Goel you indicated that your taxes were
21 timely filed on December 14th. And in then in your last
22 testimony you stated that -- I think that you stated it
23 was not filed timely because of the accountant. So is
24 your argument that your taxes were filed timely, or that
25 they were not filed timely?

1 MR. GOEL: Let me explain that. Our intention
2 was to have them filed by April 15th. And so we give our
3 accountant all the information to have them filed by
4 April 15th, and he said okay. He says I could be late, so
5 we had our extension form for filing it late, for
6 October 15th. And we also paid \$3,000 as a part of it.
7 And he still could not do it. So, eventually, he was able
8 to have it filed by December 14th, and our document show
9 that. Because already we were on time because the time
10 was -- the extension was made by FTB to file the date by
11 January 15th, 2021, because of COVID. So the --

12 JUDGE KATAGIHARA: Okay. I'm going to interrupt
13 you right there. Let's go back to your authorization. So
14 I see that Exhibit 2 indicates that you signed the
15 authorization form on December 14th, but your taxes were
16 not filed by FTB until January 29th. So do you
17 have any --

18 MR. GOEL: I --

19 JUDGE KATAGIHARA: Have you submitted any
20 evidence to show that your taxes were actually filed on
21 December 14th? Or do you only have the authorization
22 showing that you filed --

23 MR. GOEL: This is all I have. This is all they
24 gave me. That this is -- I was given to understand that
25 with this document my taxes would be filed on December 14th.

1 I had no way to doubt that. And I'm sorry if they were
2 filed late because I had no knowledge. I was content and
3 happy that at least I finished my duty to pay all the
4 payments on time. I didn't even notice until now that
5 they were filed --

6 JUDGE KATAGIHARA: I'm sorry. Can you repeat
7 that last --

8 MR. GOEL: Sorry?

9 JUDGE KATAGIHARA: Can you start your statement
10 over and just that last sentence.

11 MR. GOEL: I am -- I did not hear it or know it
12 until today until you mentioned that they were filed on
13 January 29th, or something like that. I had no idea about
14 that. I was -- I was given to understand from this
15 document that they were filed on December 14th and
16 everything is good.

17 JUDGE KATAGIHARA: Okay. Thank you. No further
18 questions.

19 JUDGE STANLEY: Judge Kletter, do you have any
20 questions?

21 JUDGE KLETTER: No questions. Thank you.

22 JUDGE STANLEY: I have at least one follow up.
23 Mr. Goel, you said more than once that you -- that the due
24 date was extended to January 15th.

25 MR. GOEL: Yes.

1 JUDGE STANLEY: Were you told that by somebody?

2 MR. GOEL: Yes. The same person the accountant
3 told us that due to COVID, the FTB California State had
4 extended the deadline to January 15th.

5 JUDGE STANLEY: Okay. Then I'm going to ask
6 Ms. Fassett to please respond to that.

7 MS. FASSETT: I'm sorry. What is the question?

8 JUDGE STANLEY: The Goels were told by their
9 accountant that the Franchise Tax Board had extended the
10 due date for filing 2019 taxes to January 15th, 2021. So
11 I was going to ask you to respond to that, please.

12 MS. FASSETT: Yes. As it's in, I believe --
13 Exhibit C and D talks about the -- Respondent's Exhibits C
14 and D talk about the extension. It was first extended for
15 COVID, and then it was extended for the Appellants because
16 they lived in a wildfire zone. So it was extended to
17 January 15th, 2021.

18 MS. ZUMAETA: And I'd like to add that it was --
19 the extension was not of the original due date. It was
20 that anything filed by that date would be deemed timely.
21 So it's not that the automatic extension would add on to
22 that date. It was just that it would be deemed filed
23 timely if filed by that date.

24 JUDGE STANLEY: Okay. Thank you.

25 Do the Judges have any follow-up questions?

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No.

Okay. That's all I have, so we're going to conclude the hearing, and the record is now closed for this appeal and is submitted for deliberation. And a decision by the Panel, and the Office of Tax Appeals will mail you that opinion within 100 days of today.

I want to thank you for coming and participating. And we are going to recess, and we will reconvene for the next hearing in about 15 minutes.

(Proceedings adjourned at 1:27 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 5th day
of February, 2024.

ERNALYN M. ALONZO
HEARING REPORTER