



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Riaz Ahmad, aka Ahmad Riaz,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 22-002549

Michigan Department of Treasury,
Respondent.

Presiding Judge
Patricia L. Halm

ORDER UPDATING DOCKET

ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION
UNDER MCR 2.116(C)(8)

ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION
UNDER MCR 2.116(C)(10)

FINAL OPINION AND JUDGMENT

INTRODUCTION

On August 22, 2022, the Michigan Department of Treasury (Respondent) filed Motions, in lieu of an Answer, requesting that the Tribunal enter Summary Disposition in its favor in the above-captioned case. Respondent contends that Summary Disposition is appropriate under Michigan Court Rules (MCR) 2.116(C)(8) and 2.116(C)(10). Specifically, Respondent asks the Tribunal to affirm six tax assessments against Riaz Ahmad, aka Ahmad Riaz (Petitioner), as the liable corporate officer of Garfield Mart, Inc. (Garfield). These assessments include:

Assessment Number	Type of Tax	Tax Due	Penalty	Interest ¹	Tax Period
VA0WQ2U	Withholding	\$121.63	\$30.41	\$41.69	June 2015
VA0WQ2X	Withholding	\$132.15	\$33.04	\$41.57	February 2016
UW07791	Sales	\$4,382.66	\$497.20	\$856.04	January 2017
VA0WQ3B	Sales	\$3,070.20	\$797.55	\$965.05	February 2016
VA0WQ3A	Sales	\$1,957.57	\$489.39	\$636.07	November 2015
VA0WQ2Y	Sales	\$4,616.50	\$1,154.13	\$1,582.70	June 2015

¹ The interest listed is as of the date of the Final Bills for Taxes Due sent to Petitioner. Pursuant to MCL 205.24, interest continues to accrue until the tax is paid.

Petitioner did not file a response to the Motions.

The Tribunal has reviewed the Motions and the evidence submitted and finds that granting Respondent's Motion for Summary Disposition under MCR 2.116(C)(10) and denying Respondent's Motion under MCR 2.116(C)(8) is warranted.

RESPONDENT'S CONTENTIONS

In support of its Motions, Respondent contends that Petitioner admits in the Petition that he was Garfield's sole corporate officer for the 2015, 2016, and 2017 tax years. Respondent further contends that Petitioner willfully failed to file the tax returns and pay the taxes that are at issue in this case. Respondent asserts that the evidence submitted is prima facie evidence of corporate officer liability under MCL 205.27a(5). Respondent argues that Petitioner, as Garfield's sole owner and corporate officer, cannot blame accountants or employees for failure to file the tax returns or pay the taxes.

Respondent contends that Garfield filed Sales, Use, and Withholding (SUW) returns with insufficient payments for the June 2015, November 2015, February 2016, and January 2017 tax periods, resulting in Respondent issuing assessments for those periods. Respondent listed several titles that it contends Petitioner used in representing Garfield (i.e., President, owner, etc.) and contends that, based on those titles and certain signatures by Petitioner, corporate officer status is appropriate.

Respondent explained that, at the informal conference, Petitioner argued that Garfield's general manager was responsible for the tax payments. However, Respondent contends that Petitioner maintains the ultimate responsibility for the payment of the subject taxes. According to Respondent, several of the claims made by Petitioner in the Petition support Respondent's position, including claims that Petitioner is Garfield's sole owner, the sole corporate officer, an absentee owner, and that Petitioner had the authority to, and did delegate, tax related tasks to the general manager.

Respondent argues that legal authority provides that Petitioner, as a corporate officer, is liable for the taxes owed. Respondent relies upon MCL 211.27a(5), MCL 211.27a(15)(b) and Revenue Administrative Bulletin 2015-23 in support of this contention. Respondent also relies on *Klecha v Treasury*.²

Respondent contends that Petitioner signed documents and checks before, during, and after the relevant periods, and that this is evidence of his status as a corporate officer. Respondent further contends that Petitioner's failure to ensure that the relevant returns were filed was willful. Finally, Respondent contends that Petitioner's argument that he delegated responsibility for tax related tasks is not legally sufficient to meet his burden of proof.

In support of its Motions, Respondent submitted the following exhibits:

² *Klecha v Treasury*, 21 MTT 378 (2012).

1. Exhibit 1: Final Bills for Taxes Due levied against Petitioner:
 - a. VA0WQ2U, issued July 5, 2022.
 - b. UW07791, issued July 5, 2022.
 - c. VA0WQ3B, issued July 5, 2022.
 - d. VA0WQ3A, issued July 5, 2022.
 - e. VA0WQ2Y, issued July 5, 2022.
 - f. VA0WQ2X, issued July 5, 2022.
2. Exhibit 2: Articles of Incorporation for Garfield Mart, Inc., filed on August 12, 2004.
3. Exhibit 3: A copy of a Petition dated July 25, 2022.
4. Exhibit 4: 2015 Sales, Use and Withholding Taxes Monthly/Quarterly Return, June 2015, unsigned.
5. Exhibit 5: 2015 Sales, Use and Withholding Taxes Monthly/Quarterly Return, November 2015, unsigned.
6. Exhibit 6: 2017 Sales, Use and Withholding Taxes Monthly/Quarterly Return, January 2017, signed by John Saweeres, Bookkeeper.
7. Exhibit 7: Bills for Taxes Due levied against Garfield Mart, Inc.:
 - a. VA0WQ2U, issued May 18, 2018.
 - b. UW07791, issued June 15, 2017.
 - c. VA0WQ3B, issued May 18, 2018.
 - d. VA0WQ3A, issued May 18, 2018.
 - e. VA0WQ2Y, issued May 18, 2018.
 - f. VA0WQ2X, issued May 18, 2018.
8. Exhibit 8: Final Bills for Taxes Due levied against Garfield Mart, Inc.:
 - a. VA0WQ2U, issued January 9, 2019.
 - b. UW07791, issued August 24, 2017.
 - c. VA0WQ3B, issued January 9, 2019.
 - d. VA0WQ3A, issued January 9, 2019.
 - e. VA0WQ2Y, issued January 9, 2019.
 - f. VA0WQ2X, issued January 9, 2019.
9. Exhibit 9: Letter of Inquiry, dated April 3, 2019, addressed to Petitioner.
10. Exhibit 10: 2008 Michigan Business Tax Annual Return for Garfield Mart, Inc., signed by Petitioner as President.
11. Exhibit 11: Combined Return for Michigan Taxes for Garfield Mart, Inc., dated August 20, 2012, and signed by Petitioner as President.
12. Exhibit 12: Checks made payable to the State of Michigan, from the bank account of Garfield Mart, Inc., signed by Petitioner, dated 2005 through 2014.
13. Exhibit 13: Electronic Funds Transfer Debit Application for Garfield Mart, Inc., signed by Petitioner as President, dated March 15, 2005.
14. Exhibit 14: Registration for Michigan Taxes for Garfield Mart, Inc., signed by Petitioner as President.
15. Exhibit 15: Michigan Domestic Corporation Information Update, Years 2005, 2006, 2007, 2008, 2009, 2010, 2011, and 2012, for Garfield Mart, Inc., signed by Petitioner as either President or Owner.

16. Exhibit 16: Installment Agreement, signed by Petitioner and listing Petitioner's ownership as 100%, dated September 23, 2016.
17. Exhibit 17: Copies of tax payments made by Petitioner, with a note from Petitioner stating: "Please find attached March 30, 2017 info," and another note from Petitioner dated April 15, 2017.
18. Exhibit 18: Letter from Respondent to Garfield Mart, Inc., dated April 10, 2017, notifying Garfield Mart, Inc. that its installment agreement was entering default status.
19. Exhibit 19: Powers of Attorney signed by Petitioner as President, dated April 11, 2018, and December 12, 2018.
20. Exhibit 20: Bills for Taxes Due levied against Petitioner:
 - a. VA0WQ2U
 - b. UW07791
 - c. VA0WQ3B
 - d. VA0WQ3A
 - e. VA0WQ2Y
 - f. VA0WQ2X
21. Exhibit 21: Letter from Petitioner's attorney to Respondent, dated August 31, 2020, re Notice of Intent to Assess.
22. Exhibit 22: Informal Conference Recommendation;
23. Exhibit 23: Decision and Order of Determination, dated June 24, 2022.
24. Exhibit 24: Revenue Administrative Bulletin 2015-23.
25. Exhibit 25: *Klecha v Department of Treasury*, (MTT Docket No. 357723), issued March 28, 2012.
26. Exhibit 26: *Rolinski v Michigan Department of Treasury*, (MTT Docket No. 357830), issued July 23, 2012.
27. Exhibit 27: *Daoud v Michigan Department of Treasury*, unpublished per curiam opinion of the Court of Appeals, issued December 3, 2020 (Docket No. 351087).
28. Exhibit 28: *Crossman v Michigan Department of Treasury*, (MOAHR Docket No. 17-005055), issued May 14, 2019.

STANDARD OF REVIEW

There is no specific Tribunal rule governing Motions for Summary Disposition. Therefore, the Tribunal is bound to follow the Michigan Rules of Court in rendering a decision on such Motions.³ In this case, Respondent moves for Summary Disposition under MCR 2.116(C)(8) and MCR 2.116(C)(10).

Motions under MCR 2.116(C)(8) are appropriate when "[t]he opposing party has failed to state a claim on which relief can be granted." The Court of Appeals has held that:

A motion for summary disposition under MCR 2.116(C)(8) tests the legal sufficiency of a complaint. Under this subrule "[a]ll well-pleaded factual

³ See TTR 215.

allegations are accepted as true and construed in a light most favorable to the nonmovant.” When reviewing such a motion, a court must base its decision on the pleadings alone. In a contract-based action, however, the contract attached to the pleading is considered part of the pleading. Summary disposition is appropriate under MCR 2.116(C)(8) “if no factual development could possibly justify recovery.”⁴

MCR 2.116(C)(10) provides for summary disposition when “there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law.”⁵ The Michigan Supreme Court, in *Quinto v Cross and Peters Co.*,⁶ provided the following explanation of MCR 2.116(C)(10):

MCR 2.116 is modeled in part on Rule 56(e) of the Federal Rules of Civil Procedure . . . [T]he initial burden of production is on the moving party, and the moving party may satisfy the burden in one of two ways.

First, the moving party may submit affirmative evidence that negates an essential element of the nonmoving party's claim. Second, the moving party may demonstrate to the court that the nonmoving party's evidence is insufficient to establish an essential element of the nonmoving party's claim. If the nonmoving party cannot muster sufficient evidence to make out its claim, a trial would be useless and the moving party is entitled to summary judgment as a matter of law.

In reviewing a motion for summary disposition brought under MCR 2.116(C)(10), a trial court considers affidavits, pleadings, depositions, admissions, and documentary evidence filed in the action or submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. A trial court may grant a motion for summary disposition under MCR 2.116(C)(10) if the affidavits or other documentary evidence show that there is no genuine issue in respect to any material fact, and the moving party is entitled to judgment as a matter of law. MCR 2.116(C)(10), (G)(4).

In presenting a motion for summary disposition, the moving party has the initial burden of supporting its position by affidavits, depositions, admissions, or other documentary evidence. The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists. Where the burden of proof at trial on a dispositive issue rests on a nonmoving party, the nonmoving party may not rely on mere allegations or denials in pleadings, but must go beyond the pleadings to set forth specific facts showing that a genuine issue of material fact exists. If the opposing

⁴ *Liggett Restaurant Group, Inc v City of Pontiac*, 260 Mich App 127, 133; 676 NW2 633 (2003). (Citations omitted).

⁵ *Id.*

⁶ *Quinto v Cross and Peters Co*, 451 Mich 358; 547 NW2d 314 (1996). (Citations omitted).

party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted.⁷

“A genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ.”⁸ In evaluating whether a factual dispute exists to warrant trial, “the court is not permitted to assess credibility or to determine facts on a motion for summary judgment.”⁹ “Instead, the court’s task is to review the record evidence, and all reasonable inferences therefrom, and decide whether a genuine issue of any material fact exists to warrant a trial.”¹⁰

CONCLUSIONS OF LAW

As an initial matter, the Tribunal notes that two Petitions were filed on July 11, 2022. The Petitions list Riaz Ahmad, aka Ahmad Riaz, as Petitioner. The notices of assessment at issue also list Mr. Ahmad and not Garfield Mart, Inc. as the assessed party. However, the Tribunal docketed this case under the name Garfield Mart, Inc. Given this, the Tribunal finds that this appeal was docketed in error. The docket shall be updated to reflect Riaz Ahmad, aka Ahmad Riaz, as Petitioner.

In its Motions for Summary Disposition, Respondent requests that the Tribunal find that Petitioner is personally liable for Garfield’s tax liability. This is known as “derivative liability,” or more commonly as “corporate officer liability.” The framework for corporate officer liability is established in the Revenue Act¹¹ (the Act). Specifically, MCL 205.27a(5) states, in pertinent part, that:

If a *business* liable for taxes administered under this act fails, for any reason after assessment, to file the required returns or to pay the tax due, any of its *officers*, members, managers of a manager-managed limited liability company, or partners who the department determines, based on either an audit or an investigation, is a *responsible person* is personally liable for the failure for the taxes described in subsection (14). (Emphasis added.)

Under the Act, “business” is defined, in part, as a corporation.¹² Under subsection (14) of the Act, taxes subject to MCL 205.27a(5) include taxes levied under the Michigan

⁷ *Id.* at 361-363. (Citations omitted.)

⁸ *West v General Motors Corp*, 469 Mich 177; 665 NW2d 468 (2003).

⁹ *Cline v Allstate Ins Co*, unpublished per curiam opinion of the Court of Appeals, issued June 21, 2018 (Docket No. 336299), citing *Skinner v Square D Co*, 445 Mich 153; 516 NW2d 475 (1994).

¹⁰ *Id.*

¹¹ MCL 205.1 *et seq.*

¹² MCL 205.27a(15)(a).

Sales Tax Act¹³ and the withholding and remittance of taxes owed under Michigan's Income Tax Act.¹⁴ Finally, "responsible person" is defined as:

[A]n officer, member, manager of a manager-managed limited liability company, or partner for the business who controlled, supervised, or was responsible for the filing of returns or payment of any of the taxes described in subsection (14) during the time period of default and who, during the time period of default, willfully failed to file a return or pay the tax due for any of the taxes described in subsection (14).¹⁵

To assess someone as a "responsible person," Respondent must either "proffer the specified 'prima facie evidence' described in subsection (15), see MCL 205.27a(15)(b), to establish that petitioner is a 'responsible person' subject to personal liability," or, in the alternative, "establish a 'prima facie case' that petitioner meets all the definitional elements of a 'responsible person' under subsection (15)."¹⁶ Under the Act, "prima facie evidence" is "[t]he signature, including electronic signature, of any officer, member, manager of a manager-managed limited liability company, or partner on returns or negotiable instruments submitted in payment of taxes of the business *during the time period of default*."¹⁷ However, "[a] signature, including electronic signature, on a return or negotiable instrument submitted in payment of taxes *after the time period of default* alone is not prima facie evidence that the person is a responsible person for the time period of default but may be considered along with other evidence to make a prima facie case that the person is a responsible person."¹⁸

With that backdrop, the Tribunal turns to Respondent's Motion under MCR 2.116(C)(8). As discussed, when reviewing a (C)(8) Motion, a court must base its decision on the pleadings alone. In this case, this means that the Tribunal's decision must be made based on Petitioner's Petition and Respondent's Answer. Respondent's (C)(8) Motion may only be granted when, after construing the allegations in the light most favorable to Petitioner, there are no facts that could be developed that could possibly justify Petitioner's recovery.

In the Petition, Petitioner states that:

The facts upon which Petitioner relies and which are the basis if this proceeding are as follows:

¹³ MCL 205.27a(14)(b)(i).

¹⁴ MCL 205.27a(14)(b)(vi).

¹⁵ MCL 205.27a(15)(b).

¹⁶ *Daoud* at 3. (Emphasis added.) The Tribunal recognizes that while "unpublished opinions of [the Court of Appeals] are not binding precedent . . . they may, however, be considered instructive or persuasive authority." *Paris Meadows, LLC v City of Kentwood*, 287 Mich App 136, 145 n 3; 783 NW2d 133 (2010). In this case, the Tribunal finds the court's decision instructive.

¹⁷ MCL 205.27a(15)(b). (Emphasis added.)

¹⁸ *Id.* (Emphasis added.)

- (a) The Notices of Final Assessment (copies of which are attached and marked as Exhibit "A") were mailed to Petitioner on July 5, 2022.
- (b) Taxpayer, Riaz Ahmad, is the owner of all of the capital stock of Garfield Mart, Inc. and is the sole officer of the company.
- (c) Garfield Mart, Inc. gave the general manager of the company and not Taxpayer the responsibility for ensuring that tax returns were prepared and filed and tax payments were made.
- (d) Taxpayer, Riaz Ahmad's involvement in Garfield Mart, Inc. was not "tax specific."
- (e) Taxpayer, Riaz Ahmad, was a non-active absentee owner of Garfield Mart, Inc. He made no management decisions with respect to control of the affairs of the Company and he did not earn a salary, wage or dividend from the company because he did not work for the company.¹⁹

Petitioner's contention that its involvement in Garfield was not tax specific is key because "personal tax liability will not attach to corporate officers who simply have significant involvement in the financial affairs of a corporation. The involvement must be tax specific."²⁰ In other words, a corporate officer cannot be held personally liable for taxes if that officer's involvement in the corporation did not specifically involve taxes. Therefore, this assertion is a defense against Petitioner's personal liability for the assessments at issue and, as a result, Petitioner has set forth a defense upon which relief could be granted. As explained, under MCR 2.116(C)(8), the Tribunal looks only to whether a claim or defense was raised and not to whether there is a factual basis supporting the claim or defense. After analyzing the defense in the light most favorable to Petitioner, the non-moving party, denial of Respondent's Motion under MCR 2.116(C)(8) is appropriate.

Turning to Respondent's Motion under MCR 2.116(C)(10), the Tribunal must determine whether there are any genuine issues as to any material fact and, if not, whether Respondent is entitled to judgment or partial judgment as a matter of law. In this case, there is no dispute that Garfield is a "business" as defined under MCL 205.27a(15). Garfield was incorporated in Michigan as a Domestic Profit Corporation on August 12, 2004.²¹ In addition, Respondent's un rebutted evidence, including various tax returns, indicates that Garfield was liable for sales and withholding taxes, that assessments had been levied against Garfield, and that these assessments were not paid.²² The evidence

¹⁹ Petition, ¶ 5.

²⁰ *Livingstone v Dep't of Treasury*, 434 Mich 771; 456 NW2d 684 (1990).

²¹ Exhibit 2. The Tribunal takes judicial notice that Garfield was dissolved on July 15, 2017. However, pursuant to MCL 205.27a(5), "[t]he dissolution of a business does not discharge a responsible person's liability for a prior failure of the business to file a return or pay the tax due."

²² See Exhibits 4, 5, 6, and 7.

further indicates that on April 3, 2019, Respondent notified Petitioner of his corporate officer liability.²³

With this, it must be determined whether Petitioner was a corporate officer of Garfield. The Tribunal finds that there is no dispute in this regard as Petitioner held himself out to be Garfield's sole corporate officer. Specifically, in the Petition, Petitioner indicates that he "is the owner of all of the capital stock" of Garfield and that he is Garfield's sole officer.²⁴ In addition, Garfield's Articles of Incorporation lists Petitioner as Garfield's sole incorporator²⁵ and several of Respondent's other exhibits list Petitioner as Garfield's President.

Next, it must be determined whether Petitioner, as Garfield's sole corporate officer, "controlled, supervised, or was responsible for the filing of returns or the payment of any taxes"²⁶ during the time period of default time. "Time period of default" is defined as "the tax period for which the business failed to file the return or pay the tax due under subsection (5) and through the later of the date set for the filing of the tax return or making the required payment."²⁷ In this case, the "time period of default" was June 2015, November 2015, February 2016, and January 2017.

Petitioner does not dispute that sales and withholding taxes were owed by Garfield for the time period of default. Petitioner also does not dispute that these taxes were not paid. Instead, as discussed, Petitioner asserts that the general manager was the person responsible for ensuring tax returns were prepared and filed, and that tax payments were made. Petitioner maintains that his involvement with Garfield was not "tax specific" and that he was a non-active absentee owner without management decisions, salary, wages, or dividends.

However, as the admitted sole corporate officer and sole member of Garfield, Petitioner was the only officer or member who could have been responsible for Garfield's tax-specific duties. In addition, the evidence submitted by Respondent indicates that Petitioner controlled, supervised, or was responsible for the filing of returns and the payment of taxes before and during the time period of default. This evidence includes Garfield's 2008 and 2012 tax returns, signed by Petitioner²⁸, a debit application for the electronic transfer of Garfield's tax payments signed by Petitioner in 2005²⁹, and Garfield's 2004 Registration for Michigan Taxes, signed by Petitioner.³⁰

As discussed, MCL 205.27a(15) states that:

²³ See Exhibit 9.

²⁴ Petition, ¶ 5(b).

²⁵ See Exhibit 2.

²⁶ MCL 205.27a(15)(b).

²⁷ MCL 205.27a(15)(c).

²⁸ See Exhibits 10 and 11.

²⁹ See Exhibit 13.

³⁰ See Exhibit 14.

With respect to a return or *negotiable instrument* submitted in payment of taxes *before* the time period of default, the signature, including electronic signature, on that document *along with evidence, other than that document*, sufficient to demonstrate that the signatory was an officer, member, manager of a manager-managed limited liability company, or partner *during the time period of default* is *prima facie evidence* that the person is a responsible person. (Emphasis added.)

In this case, Respondent submitted checks signed by Petitioner from 2005 through 2014 for the payment of Garfield's tax liability. Thus, pursuant to MCL 205.27a(15), these checks, in combination with Petitioner's officer status and other unrebutted evidence submitted by Respondent, are *prima facie evidence* that Petitioner was a responsible person during the time period of default.

In addition, MCL 205.27a(15) states that:

A signature, including electronic signature, on a return or negotiable instrument submitted in payment of taxes *after* the time period of default alone is not *prima facie evidence* that the person is a responsible person for the time period of default but may be considered along with other evidence to make a *prima facie* case that the person is a responsible person.

To that end, Respondent's evidence includes checks signed by Petitioner in March 2017 and April 2017³¹, after the time period of default. These checks, in combination with Petitioner's officer status and other unrebutted evidence, are also *prima facie evidence* that Petitioner is a responsible person.³²

Importantly, during the overall time period of default, being June 2015 through January 2017, Petitioner signed an Installment Agreement³³ wherein he agreed to pay an assessment levied against Garfield. For these reasons, the Tribunal finds that Petitioner is a responsible person and that the evidence establishes that Petitioner's claim that he is not a tax-specific officer of Garfield lacks merit.

The Tribunal further finds that even if Garfield gave the general manager the responsibility for ensuring that tax returns were prepared and filed and that the taxes were paid, this decision was made by Petitioner, as Garfield's sole corporate officer. Moreover, such a decision does not relieve Petitioner from his responsibility to supervise the general manager and to ensure that the taxes were timely paid.

³¹ See Exhibit 17.

³² Because Respondent produced *prima facie* evidence under subsection (15)(b) that Petitioner is a "responsible person," the requirements of a "responsible person" under subsection (15), including willfulness, are presumed to have been met.

³³ See Exhibit 16, Installment Agreement signed September 23, 2016.

In *Klecha*, the Tribunal was presented with a similar argument. In that case, the Tribunal held that “[a] corporate officer who is charged with the responsibility to collect a state’s sales or use taxes is not relieved of liability for failure to collect and pay over the taxes by delegating responsibility for collecting the taxes to subordinates.”³⁴ The Tribunal explained that:

Other state courts have held that the corporate officer cannot avoid officer liability by delegation to a non-officer. “We are not persuaded that the liability imposed by Tax Law § 1133(a) may be evaded by simply delegating responsibility to a subordinate.” See *Matter of Rosenblatt v New York State Tax Commn*, 114 AD2d 127, 130; 498 NYS2d 529 (1986) reversed on other grounds 68 NY2d 775; 506 NYS2d 675; 498 NE2d 148 (1986); *Matter of Ragonesi v New York State Tax Commn*, 88 AD2d 707; 451 NYS2d 301 (1982); *Matter of Gardineer v State Tax Commn*, 78 AD2d 928, 929; 433 NYS2d 242 (1980). This principle is sound and fully comports with the letter and spirit of Michigan’s officer liability statute. Also see, *McGlothin v Limbach*, 57 Ohio St 3d 72; 565 NE2d 1276 (1991).³⁵

As a result of the foregoing, the Tribunal finds that there are no genuine issues of material fact. The prima facie evidence is conclusive that Petitioner was a responsible person under MCL 205.27a(15)(b) and, as such, is personally liable for the sales and withholding taxes assessed by Respondent. Therefore, after carefully considering Respondent’s Motions, the Tribunal finds that Respondent is entitled to Summary Disposition under MCR 2.116(C)(10) as a matter of law. The assessments are affirmed.

JUDGMENT

IT IS ORDERED that the docket shall be updated to reflect Riaz Ahmad, aka Ahmad Riaz, as the Petitioner in this matter and not Garfield Mart, Inc.

IT IS FURTHER ORDERED that Respondent’s Motion for Summary Disposition under MCR 2.116(C)(8) is DENIED.

IT IS FURTHER ORDERED that Respondent’s Motion for Summary Disposition under MCR 2.116(C)(10) is GRANTED.

IT IS FURTHER ORDERED that Assessment Nos. VA0WQ2U, VA0WQ2X, VA0WQ2Y, VA0WQ3A, VA0WQ3B, and UW07791 are AFFIRMED.

This Final Opinion and Judgment resolves the last pending claim and closes the case.

³⁴ *Klecha*, citing Hellerstein, State Taxation, ¶ 19.06[2] Personal Liability of Corporate Officers and Employees.

³⁵ *Klecha*.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A motion for reconsideration must be filed with the Tribunal with the required filing fee within 21 days from the date of entry of the final decision. Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee. You are required to serve a copy of the motion on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion. Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.

A claim of appeal must be filed with the Michigan Court of Appeals with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." You are required to file a copy of the claim of appeal with filing fee with the Tribunal in order to certify the record on appeal. The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.

By Patricia L. Haem

Entered: February 27, 2023
bw/plh

PROOF OF SERVICE

I certify that a copy of the foregoing was sent on the entry date indicated above to the parties or their attorneys or authorized representatives, if any, utilizing either the mailing or email addresses on file, as provide by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk