

**September 2, 2025**

**IN RE: Kupa, Mefail**

**Docket No: 36BPMERZZ7282 and 36NPMERZZ8649**

**Statement of Record:**

- 1) Mr. Mefail Kupa (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board ("TRB") on December 29, 2022. The Petition requested a review of whether the Petitioner was entitled to credits for the business privilege tax for invoices paid in cash in the audit conducted by the Philadelphia Department of Revenue.
- 2) Petitioner is represented by Mr. David Denenberg.
- 3) A public hearing was scheduled for August 17, 2023.
- 4) The City requested a continuance which was granted. The case was then rescheduled for January 4, 2024.
- 5) Petitioner requested continuance which was granted. The case was rescheduled for August 6, 2024.
- 6) The Petitioner then requested another continuance and specifically requested an in-person hearing before the Board. The Board granted the petition, noting no further continuances would be granted in this case and the case would be given a date certain of December 4, 2024.
- 7) After hearing evidence and testimony, the Board held this matter under advisement, to review the documents presented and allow parties to submit additional evidence. The Board then listed the case for a decision-only reading on February 28, 2025.
- 8) The Board denied the Petitioner's petition, noting that the Petitioner did not meet its burden.
- 9) Petitioner has filed an appeal with the Philadelphia Court of Common Pleas.

**Findings of Fact:**

1. Petitioner filed a Petition for Appeal requesting the TRB find the audit conducted in 2022 for tax years 2018, 2019 and 2020 by the Department of Revenue was incorrect and the petitioner is entitled to a credit for the business privilege tax and net profits tax for invoices submitted of payments he made in cash.
2. At the time of the hearing, the amounts due and owing for the years 2018 to 2020 for Business Privilege, "BP" \$64,617 of tax principal, \$9,697 of interest, \$20,213.26 of penalty for a total of \$97,527.26. For Net Profit Tax, "NPT" the amount due for the years 2018-2020 is \$6,237 of principal tax, \$2,191.26 of interest, \$1,012.40 of penalty for a total due of \$8,362.66. (Notes of Testimony Hearing Date, 12/4/24; Pg. 12; Ln.13-20).
3. Petitioner testified that he is a general contractor in the City of Philadelphia and sometime in 2018 he acquired several vacant properties in Philadelphia, specifically, 1121 Earle Street and 129 East Allen Street. (Id.; Pg. 18; Ln. 7-21).
4. Petitioner explained he paid "close to \$540,000 in total" to build single family homes in these lots. (Id.; Pg. 21; Ln. 15). He elaborated that he was able to finance these builds by adding his "own cash" versus financing from a bank to finish the projects. He noted he added "\$120,000, \$113,000 (cash)... I was short from the bank that loaned me money". (Id.; Pg. 23; Ln. 12-13).
5. Petitioner testified that he paid several thousand dollars' worth to various contractors for smaller jobs like painting and paving sidewalks in cash. (Exhibit A, Section 2).

6. The Department of Revenue auditor, Ashika Nayak, conducted the audit on Petitioner's account in 2022. At the time of the hearing, Ms. Nayak was no longer employed by the Department Revenue. (Notes of Testimony; Pg. 31; Pg. 21-22).
7. City Revenue Examiner Kristen Schultz testified to the audit report dated October 25, 2022.
8. The audit found "invoices that were provided for cash expenses that did not receive sufficient source documentation...[and] additional income as a result of the audit that was found and assessed compared to what was originally filed". (Id.; Pgs. 33-34; Ln. 20-10).
9. More specifically, the invoices submitted by the Petitioner were disallowed as there were "no contracts from these subcontractors and/or suppliers...the subcontractors that were presented...by searching by name, they did not have any accounts with the city". (Id.; Pgs. 40-41; Ln. 23-5).
10. Ms. Schultz also testified to other examples that caused the auditor to disallow the invoices including that one of the subcontractors, Loft Construction's listed address was not associated with that address in a Google search, there were duplicate invoice number from the same supplier, invoices were not in sequential order, and an invoice were issued on November 31, a day that doesn't exist. (Id.; Pg. 43; Ln. 1-20). "[O]f those three contractors, there was no contact information, there was no phone number, there was no email address. There was no person mention." (Id.; Pg. 42; Ln. 1-3).
11. Additionally, source documentation like general ledgers or bank statements were never provided to the auditor. (Id. Pg. 43).
12. Ms. Schultz also explained, "the return was filed with a loss of \$7,153. And the auditor, due to the disallowed expenses, calculated the new income of \$135,460. And then that would be the same for 2019. The return was filed with a loss of \$18,610. And as a result of the audit, there was income of \$439,075. And then for 2020 year, there was income for the audit of \$570,781". (Id.; Pg. 38-39; Ln. 18-2).
13. Under questioning from the Board, the Petitioner testified that he did not provide 1099s nor did he enter into contracts with the subcontractors who did the "small jobs". He explained, he writes off these costs by "showing the expenses. My general contracting company is a passthrough. We just show the exact expenses that we have". (Id.; Pg. 52; Ln.12-14).

### **Conclusion Law:**

Petitioner bears the burden of proof to establish by substantial evidence that the City's assessment is incorrect. Ernest Renda Construction Co. Inc. v. Commonwealth, 94 Pa. Commonwealth Ct. 608, 504 A. 2d 1349 (1986).

The Board finds that the Petitioner failed to meet the burden that the audit conducted by the Department of Revenue was incorrect or inaccurate; or more specifically, that the determination to disallow the cash receipts submitted by the Petitioner was inappropriate or an erroneous decision by the auditor.

The City's witness, Ms. Schultz testified to the multiple and questionable issues the original auditor's assessed regarding the cash receipts. The Board found the issues with the invoices testified to and mentioned in the audit created doubt about the validity of the invoices. In the Board's review of the invoices it agreed with the conclusions of the auditor—invoices not in sequential order, duplicative, dated with dates that do not exist and with no contact information-- create doubt around their

authenticity. The cumulative effect of all these inconsistencies and missing information, leave the Board with little doubt that these invoices are not legitimate. Additionally, the Board finds it hard to believe that the Petitioner, a savvy and longtime business owner in the City of Philadelphia, failed to have contracts in place with multiple sub-contractors, or issue 1099s for what he considers "small jobs" in the thousands of dollars spanning this 3 year period. The Petitioner testified to spending over \$100,000 dollars of his own savings to complete the buildings and yet he provided no bank statements, ledgers or solid source documents to backup this significant investment.

Ultimately, the Petitioner's testimony and evidence presented simply did not show that the City's audit was inaccurate in any way; in fact the evidence and testimony supported the Department of Revenue audit. As such, the Board determined that the Petitioner fail to meet their burden and denied the petition.

Concurred:

Paula Wiess, Chair

Nancy Kammerdeiner

Ryan Boyer