

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.
 :
 v. : Criminal No.
 :
 SAMEER GUPTA : 26 U.S.C. § 7201

INFORMATION

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

1. At all times relevant to this Information:

a. The Internal Revenue Code and attendant regulations provided that every domestic corporation must file an income tax return on a Form 1120, U.S. Corporation Income Tax Return, or similar form, with the Internal Revenue Service (the "IRS"), regardless of whether or not the corporation had taxable income.

b. Under the Internal Revenue Code and attendant regulations, S corporations were domestic corporations electing to pass corporate income, losses, deductions and credits through to their shareholders for federal tax purposes. Accordingly, an S Corporation did not pay income tax at the entity level; rather, the shareholders of an S Corporation were required to report the amount of S Corporation income attributable to each shareholder

on a Form 1040, U.S. Individual Income Tax Return, and to pay any taxes due on that "pass-through" income.

c. Defendant SAMEER GUPTA, a resident of Edison, New Jersey, along with his father, J.G., owned and operated J.S. Marketers Inc. ("J.S. Marketers"), a wholesale company that sold, among other products, adult paraphernalia to various customers, including large adult-store chains and smaller retail video stores and bodegas. For the calendar years 2006, 2007, 2008, and 2009, J.S. Marketers was registered as an S corporation in the State of New York, and filed a Form 1120S U.S. Income Tax Return for an S Corporation for each of those years.

d. J.S. Marketers invoiced its customers for the amount of product sold and in return received payments in the form of checks, money orders, or cash, some of which payments were deposited into J.S. Marketers' business account maintained at Bank #1.

e. Customer monies received and deposited at Bank #1 were entered in J.S. Marketers' corporate ledgers. At the end of each calendar year, the corporate ledgers and the related bank statements were provided to J.S. Marketers' accountant to reconcile and to aid in the preparation of J.S. Marketers' Form 1120S for that particular year.

Diverted Business Receipts

2. During the years 2006, 2007, 2008, and 2009,

defendant SAMEER GUPTA diverted approximately \$822,916 of J.S. Marketer customer business receipts into 17 different personal bank accounts held in the name of various individuals, including defendant SAMEER GUPTA, his wife, A.G., and his daughter, D.G.

3. Of the 17 personal bank accounts used by defendant SAMEER GUPTA to divert customer business receipts, 11 of those accounts were held at three different domestic institutions: Bank #2, Bank #3, and Bank #4. Defendant SAMEER GUPTA also diverted over \$250,000 into six different accounts held offshore at a foreign branch of Bank #5 in India.

4. As a result of the diversion of customer business receipts described above in paragraphs 2 and 3, J.S. Marketers' Forms 1120S for 2006, 2007, 2008, and 2009 under-reported customer receipts by approximately \$822,916. In addition, defendant SAMEER GUPTA's personal income tax returns for 2006, 2007, 2008, and 2009 failed to report this "pass-through" income of approximately \$822,916.

False Expense Scheme

5. During tax years 2007, 2008, and 2009, one of J.S. Marketers' primary vendors was P.I.C., a privately owned corporation.

6. On a regular, semi-weekly basis, J.S. Marketers purchased products from P.I.C. After J.S. Marketers received and paid for products from P.I.C. with J.S. Marketers corporate

checks, entries were made on J.S. Marketers' corporate ledger indicating that "supply" expenses were paid to P.I.C.

7. During 2007, 2008, and 2009, defendant SAMEER GUPTA caused 17 J.S. Marketers corporate checks to be made payable to either defendant SAMEER GUPTA, his daughter, D.G., or his father, J.G., in amounts identical to the P.I.C. invoices. These checks were falsely described on the J.S. Marketers ledgers as additional purchases of product from P.I.C.

8. In addition to the 17 checks falsely described as purchases from P.I.C. in paragraph 7 above, defendant SAMEER GUPTA caused 10 other J.S. Marketers checks to be made payable to either defendant SAMEER GUPTA, his daughter, D.G., or his father, J.G., in amounts identical to invoices that J.S. Marketers had received and paid to six other suppliers: P.W.D.I., L.B., P.E., P.G., A.S.C., and P.C.E.

9. In all, there were 27 checks associated with the false-expense scheme set forth in paragraphs 5 through 8 above, which checks caused J.S. Marketers 1120S filings for 2007, 2008, and 2009 to over-report business expenses and therefore under-report business income. In addition, defendant SAMEER GUPTA's personal income tax returns for 2007, 2008, and 2009 under-reported defendant SAMEER GUPTA's "pass-through" income from J.S. Marketers.

10. Furthermore, of the 27 checks associated

with the false-expense scheme, defendant SAMEER GUPTA endorsed 22 of these checks, totaling approximately \$375,138, and deposited this money into bank accounts that he controlled. However, the total amount of these checks was not reported as income on defendant SAMEER GUPTA's personal tax returns filed for the tax years 2007, 2008, and 2009.

False Tax Returns

11. For the years 2006, 2007, 2008, and 2009, defendant SAMEER GUPTA filed U.S. Individual Income Tax Returns in which he purported to report all of his income from J.S. Marketers, but which, as a consequence of the diverted business receipts and the false expense scheme set forth above, failed to report the income he received and concealed from the diverted business receipts scheme and the false expense scheme described above in paragraphs 2 through 10, which amounted to \$1,198,054.

12. On or about October 23, 2009, defendant SAMEER GUPTA prepared and caused to be prepared, signed and caused to be signed, and filed and caused to be filed with the IRS a false and fraudulent Form 1040, U.S. Individual Income Tax Return, for defendant SAMEER GUPTA and his wife, A.G., reporting taxable income for the calendar year 2008 of approximately \$56,827.

13. At the time the 2008 U.S. Individual Income Tax Return was prepared, signed, and filed with the IRS, defendant SAMEER GUPTA then and there well knew and believed that the tax

return failed to disclose and report an additional approximately \$474,126 in taxable income derived from J.S. Marketers upon which income an additional tax of approximately \$150,470 was due and owing to the United States.

14. On or about October 23, 2009, in the District of New Jersey, and elsewhere, defendant

SAMEER GUPTA

did knowingly and willfully attempt to evade and defeat a large part of the income tax due and owing to the United States for the calendar year 2008, by preparing and causing to be prepared, by signing and causing to be signed, and by filing and causing to be filed with the Internal Revenue Service, a false and fraudulent, 2008 Form 1040, U.S. Individual Income Tax Return, as described in paragraph 12, knowing it to be false and fraudulent as described in paragraph 13.

In violation of Title 26, United States Code, Section 7201.



PAUL J. FISHMAN
United States Attorney