601 West 26 Corp.
Miscellaneous Tax
Stock Transfer Ret.
Article 12
1971

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

601 WEST 26 CORP.

For a Redetermination of a Deficiency or a Refund of Stock Transfer Taxes under Article(s) 12 of the Tax Law for the (Year(s)

AFFIDAVIT OF MAILING OF NOTICE OF DECISION BY (CERTIFIED) MAIL

State of New York
County of Albany

Linda Wilson, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 15th day of January, 19 71, she served the within Notice of Decision (or Determination) by (certified) mail upon 601 WEST 26 CORP. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: 601 West 26 Corp.
45 Crosby Street
New York, New York

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) petitioner herein and that the address set forth on said wrapper is the last known address of the (representative of the) petitioner.

Sworn to before me this

15th day of January, 1971.

Martha Funaro

Linda Wilson

STATE OF NEW YORK

STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION :

OF :

601 WEST 26 CORP. :

FOR A HEARING WITH RESPECT TO STOCK TRANSFER TAXES ASSESSED PURSUANT TO ARTICLE 12 OF THE TAX LAW :

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601 West 26 Corp., the taxpayer herein, having applied for a hearing to review the determination of the State Tax Commission (Determination No. 156 dated January 17, 1964) and a hearing having been scheduled in connection therewith before Martin Schapiro, Hearing Officer of the Department of Taxation and Finance, and the taxpayer having waived the hearing and having further requested a review of the file of the facts on the record as presently constituted,

The State Tax Commission hereby finds:

(1) That on December 2, 1960 a certificate of consolidation was filed with the Secretary of State consolidating Aaron Machinery Company, Inc., Stephen Sales Co., Inc. and 601 West 26 Corp., all domestic corporations, into the taxpayer corporation 601 West 26 Corp., which pursuant to the said certificate was to survive the consolidation; that the certificate of consolidation provided as follows:

> "4. The amount of the capital stock of the consolidated corporation is Fifty-three Thousand Five hundred Twenty ($53,520) Dollars, consisting of Fifty-three Thousand Five hundred Twenty (53,520) shares of stock of the par value of One ($1.00) Dollar each.
>
> The shares shall be divided into Class A, to consist of 26,760 shares, and Class B, to consist of 26,760 shares.

STATE OF NEW YORK

STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION

OF

GOI WEST 20 CORP.

FOR A REVIEW UNDER SECTION 1083 OF THE TAX LAW OF A DETERMINATION OF THE COMMISSIONER OF TAXATION AND FINANCE

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GOI West 20 Corp., the taxpayer herein, having applied for a hearing to review the determination of the State Tax Commission (Determination No. 1,[illegible] dated January 17, 1[illegible]) and a hearing having been scheduled in accordance therewith at one Martin Complico, Hearing Officer of the Department of Taxation and Finance, and the taxpayer having waived the hearing and having further requested a review of the file of the Tribunal on the record as presently constituted,

The State Tax Commission hereby finds:

(1) That on January 2, 1[illegible] a certificate of consolidation was filed with the Secretary of State consolidating Aaron Realty Company, Inc., Stephen Sales Co., Inc. and GOI West 20 Corp., all domestic corporations, into the surviving corporation GOI West 20 Corp., which pursuant to the said certificate was to survive the consolidation; that the certificate of consolidation provided as follows:

> "b. The amount of the capital stock of the consolidated corporation is Thirty-three thousand five hundred twenty ($33,520) dollars, consisting of thirty-three thousand five hundred twenty ($33,520) shares of stock of the par value of One ($1.00) Dollar each.
>
> The shares shall be divided into Class A, to consist of 23,750 shares, and Class B, to consist of 9,770 shares.

> The designations, preferences, privileges and voting powers or restrictions or qualifications of the two classes of shares are:-
>
> Each class of shares shall have the right to elect one-half of the directors of the corporation. In the event of any vacancy on the board of directors, the director to fill such vacancy shall be elected by the class of shares which elected the directors whose position has become vacant. In all other respects, the two classes of shares shall be equal and on a parity."

that said certificate further provided for surrender by the stockholders in each of the consolidated corporations of their shares in exchange for shares of stock in the surviving corporation; that each of the shareholders was to receive in all instances an equal number of shares of Class A and Class B stock in exchange for such surrendered shares; that the certificate of consolidation has never been amended or modified subsequent to the filing of such certificate.

(2) That immediately prior to such consolidation Jacob Freidus and Claire Freidus owned 50% of the issued and outstanding shares of stock of Aaron Machinery Company, Inc. and 601 West 26 Corp.; that Becky Aaron and Samuel E. Aaron, owned the remaining 50% of the stock of said corporations; that immediately prior to the consolidation, Claire Freidus owned 50% of the issued and outstanding shares of stock of Stephen Sales Co., Inc. and Becky Aaron owned the remaining 50%; that Jacob Freidus and Claire Freidus were required by the certificate of consolidation to receive 50% of the Class A stock or 13,380 shares and 50% of the Class B stock or 13,380 shares; that Becky Aaron and Samuel E. Aaron were also required pursuant to the terms of the certificate of consolidation to receive like amounts of shares of both Class A and

Class B stock; that instead there were issued to Jacob Freidus and Claire Freidus 53,520 shares of Class A stock and no shares of Class B stock, and to Samuel E. Aaron and Becky Aaron 53,520 shares of Class B stock and no shares of Class A stock.

(3) That a determination was issued (Determination No. 156 dated January 17, 1964) determining the amount of tax in the sum of $535.20 on the transfers of each of the 13,380 shares of Class A stock from Samuel E. Aaron and Becky Aaron to Jacob Freidus and Claire Freidus and 13,380 shares of Class B stock from Jacob Freidus and Claire Freidus to Samuel E. Aaron and Becky Aaron.

Upon the foregoing facts herein, the State Tax Commission hereby

DECIDES:

That the Class A stock and Class B stock were two distinct and different classes of stock having different voting rights;

That the issuance of 26,760 shares of Class A stock to Jacob Freidus and Claire Freidus constituted a nontaxable issuance of 13,380 shares of Class A stock and a taxable transfer of the remaining 13,380 shares of Class A stock from Samuel E. Aaron and Becky Aaron who were entitled to receive the same pursuant to certificate of consolidation; that the issuance of 26,760 shares of Class B stock to Samuel E. Aaron and Becky Aaron constituted a nontaxable issuance of 13,380 shares of Class B stock and a taxable transfer of the remaining 13,380 shares of stock from Jacob Freidus and Claire Freidus who were entitled to receive the same pursuant to the certificate of consolidation; that, accordingly, the

determination of the State Tax Commission assessing stock transfer taxes in the amount of $535.20 is correct and does not include any taxes or charges not lawfully due and owing.

Dated: Albany, New York this 12th day of January 1971

STATE TAX COMMISSION

Norman Gallman
President

Bruce Manley
Commissioner

Milton Koerner
Commissioner

determination of the State Tax Commission assessing stock transfer taxes in the amount of $[illegible].20 is correct and does not include any taxes or charges not lawfully due and owing.

Dated: Albany, New York this [illegible] day of [illegible] 1[illegible].

[illegible]

President

[illegible]

Commissioner

[illegible]

Commissioner