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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HARRIS SILVER

For a Redetermination of a Deficiency, or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1962 & 1963 :

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

State of New York
County of Albany

Martha Funaro , 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 2nd day of August , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Harris Silver

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Harris Silver
83 Maytime Drive
Jericho, L.I., 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

2nd day of August , 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HARRIS SILVER

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1962 & 1963 :

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

State of New York
County of Albany

Martha Funaro , 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 2nd day of August , 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Benjamin E. Alter

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Benjamin E. Alter
570 7th Avenue
New York, New York 10018

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

2nd day of August , 1972.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York
August 2, 1972

Harris Silver
83 Maytime Drive
Jericho, L.I., New York

Dear Mr. Silver:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take ⁸⁹⁰ further notice that pursuant to
Section(s) of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within ^{4 months}
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Nigel G. Wright
Nigel G. Wright

Enc.

HEARING OFFICER

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
HARRIS SILVER : DECISION
for a Redetermination of a Deficiency :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Years 1962 and 1963. :

Harris Silver filed a petition for the redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the years 1962 and 1963. A hearing was held on December 15, 1970, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. Benjamin E. Alter, Esq. appeared for petitioner and Edward H. Best, Esq., (Francis X. Boylan, Esq., of Counsel), appeared for the Income Tax Bureau. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether the petitioner, a corporate president, is personally liable for failure to pay over taxes withheld from corporate employees.

FINDINGS OF FACT

1. Petitioner was president and his wife was vice president of Amityville Battery and Ignition Service Co., Inc., a New York Corporation not publicly held. Amityville operated a store selling motor parts and employed eleven people. It failed to pay over withholding taxes for the period beginning April 1, 1962, and ending July 15, 1963, in the amount of \$963.40.

2. Amityville made an assignment for benefit of creditors to Leo Rothstein, its former accountant, who within one month sold the assets at auction and made distributions. Nothing was left after payment of administration expenses and Federal taxes.

3. During 1962 and 1963 and before the assignment, petitioner borrowed money from relatives and paid suppliers who were pressing for payment. His assertion that he thought that the value of his inventories would cover all liabilities is contradicted by his own statements as to the obsolescence of the inventories and the very low value realized at the auction. No balance sheet or schedule of assets was offered by petitioner.

CONCLUSIONS OF LAW

Petitioner is liable for the withholding taxes which were not paid over to the State.

DECISION

The petition is denied and the deficiency is affirmed together with such interest, if any, as may be due under the Tax Law.

DATED: Albany, New York

August 2, 1971.

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Ben Masely
COMMISSIONER

Milton Korman
COMMISSIONER