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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
MALCOLM M. LISHNOFF and
ANNA LISHNOFF

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

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) 1966.

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 21st day of December, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon Mr. & Mrs. Malcolm M. Lishnoff (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mr. & Mrs. Malcolm M. Lishnoff
2 Fifth Avenue
New York, New York 10011

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

21st day of December, 1973

Judge S. Van Patten

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
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

STATE TAX COMMISSION

Mario A. Procaccino,

~~MEMBER~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

Dated: Albany, New York
December 21, 1973

Mr. & Mrs. Malcolm M. Lishnoff
2 Fifth Avenue
New York, New York 10011

Dear Mr. & Mrs. Lishnoff:

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

Please take further notice that pursuant to
Section ~~(**sk** 690~~ 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
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
MALCOLM M. LISHNOFF and :
ANNA LISHNOFF : DECISION
for a Redetermination of a Deficiency :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Year 1966. :

Malcolm M. Lishnoff and Anna Lishnoff filed a petition for the redetermination of a Statement of Deficiency dated January 26, 1970, asserting a penalty under section 685(g) of Article 22 of the Tax Law for the year 1966.

A hearing was duly held on December 4, 1972, before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York City. The Income Tax Bureau was represented by Saul Heckelman, Esq. appearing by Francis X. Boylan, Esq., of Counsel.

The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether an amount owed as a penalty under section 685(g) of the Tax Law was paid.

FINDINGS OF FACT

1. Petitioners were the principal officers of Malcolm Construction Company, Inc. of 34-35 56th Street, Woodside, New York. That firm owed \$634.50 in unpaid withholding taxes for

the period January 1, 1966 through February 28, 1966, as shown by its monthly return of withholding taxes withheld (Form IT-2101M) which however was not signed. The firm was the subject of an assignment for the benefit of creditors on February 17, 1966. Mr. and Mrs. Lishnoff were adjudged personally bankrupt on August 19, 1966, and November 13, 1967, respectively.

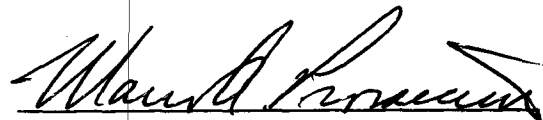
2. Petitioners have been unable to present any evidence, by cancelled check or otherwise, that the withholding taxes were paid.

DECISION

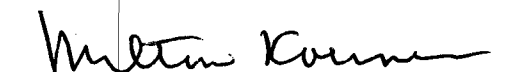
The Statement of Deficiency is found correct in its entirety.

DATED: Albany, New York
December 21, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER