

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
STEPHEN KISS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year (s) ~~xxxxxxx~~ 1972 :
1973

State of New York
County of Albany

Bruce Batchelor , 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 26th day of April , 1977, she served the within Notice of Decision by (certified) mail upon Stephen Kiss ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Stephen Kiss
71 Elberta Drive
East Northport, 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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of the)~~ 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

26th day of April , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

April 26, 1977

TELEPHONE: (518) 457-1723

Mr. Stephen Kiss
71 Elberta Drive
East Northport, New York

Dear Mr. Kiss:

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

Please take further notice that pursuant to
Section(~~s~~) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Mr. Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
STEPHEN KISS : DECISION
for Redetermination of Deficiency or for :
Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Years :
1972 and 1973. :

Petitioner, Stephen Kiss, 71 Elberta Drive, East Northport, New York has filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1972 and 1973. (File No. 11-2232690). A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 27, 1976, at 9:15 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq., of counsel).

ISSUE

Was the petitioner, Stephen Kiss, subject to the penalties imposed under section 685(g) of the Tax Law?

FINDINGS OF FACT

1. On June 30, 1975, the Income Tax Bureau issued a Notice of Deficiency against Stephen Kiss in the sum of \$2,964.47 for the

withholding tax due during 1972 and 1973. This deficiency represents a penalty imposed under section 685(g) of the Tax Law for the non-payment of withholding taxes by Sanzone Contractors Inc.

2. On August 11, 1975, Stephen Kiss filed a petition for redetermination of deficiency of personal income tax for the taxable years 1972 and 1973.

3. During the years in issue, petitioner, Stephen Kiss, was the president of Marfrank Corp. of which Sanzone Contractors Inc. was a wholly owned subsidiary. The corporate offices for each corporation were located at the same address.

4. Petitioner, Stephen Kiss, was a member of the Board of Directors of Sanzone Contractors Inc. and had the authority to sign checks for that corporation. He was not an officer nor was he employed by Sanzone Contracting Corp.

CONCLUSIONS OF LAW

A. That petitioner, Stephen Kiss, was a person required to collect, truthfully account for, and pay over New York State withholding taxes due from Sanzone Contractors Inc. for the years 1972 and 1973, in accordance with the meaning and intent of sections 674 and 685(n) of the Tax Law.

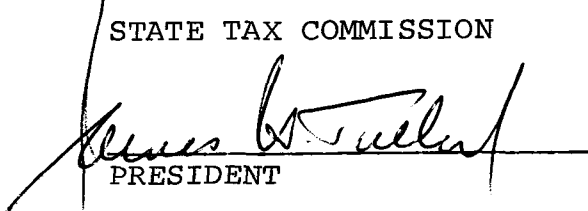
B. That the petitioner, Stephen Kiss, willfully failed or caused Sanzone Contractors Inc. to willfully fail to collect, truthfully

account for, and pay over New York State withholding taxes due from said corporation for the years 1972 and 1973; therefore, a penalty equal to the total amount of the unpaid withholding taxes was properly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

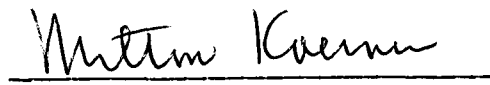
C. That the petition of Stephen Kiss is denied and the Notice of Deficiency issued June 30, 1975 is sustained.

DATED: Albany, New York
April 26, 1977

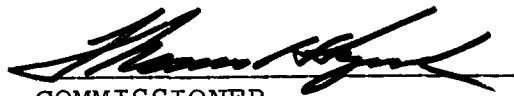
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER