

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PARITOSH KUMAR DE and UTE-URSULA DE

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 ~~(XXXXXX Period)~~ 1971.:

State of New York
County of Albany

John Huhn, being duly sworn, deposes and says that

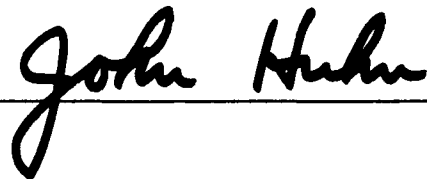
~~she~~ is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 20 day of September, 1978, ~~she~~ served the within notice of decision by (certified) mail upon Paritosh Kumar De and Ute-Ursula De ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Paritosh Kumar De and Ute-Ursula De One Palisade Avenue Piscataway, New Jersey 08854 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

20 day of September, 1978.







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

September 20, 1978

**Paritosh Kumar De and
Ute-Ursula De
One Palisade Avenue
Piscataway, New Jersey 08854**


Dear Mr. & Mrs. De :

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

You have now exhausted your right of review at the administrative level. Pursuant to section **(2) 690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 Months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


JOSEPH CHERVATY
Hearing Examiner

cc: ~~Petitioner's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
PARITOSH KUMAR DE and UTE-URSULA DE	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year 1971.:	:	

Petitioners, Paritosh Kumar De and Ute-Ursula De, One Palisade Avenue, Piscataway, New Jersey 08854, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1971 (File No. 12576).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 20, 1977 at 10:45 A.M. Petitioner Paritosh Kumar De appeared pro se and for his wife, petitioner Ute-Ursula De. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

I. Whether petitioners changed their residence from New York State to New Jersey during 1971.

II. Whether petitioners were entitled to a capital loss deduction during 1971 and, if so, in what amount.

III. Whether petitioners were allowed to deduct itemized deductions during 1971 and, if so, in what amount.

FINDINGS OF FACT

1. Petitioners, Paritosh Kumar De and Ute-Ursula De, timely filed a New York State personal income part-year resident tax return and a New York State personal income part-year nonresident tax return for 1971.

2. Because petitioners failed to reply to correspondence sent to them by the Income Tax Bureau requesting information, a Statement of Audit Changes was issued, wherein petitioners were held to be residents of New York State for the entire year and wherein a \$1,000.00 capital loss was disallowed, while the standard deduction was allowed in lieu of itemized deductions. A Notice of Deficiency was accordingly issued January 27, 1975 in the amount of \$1,830.33 in personal income tax, plus \$305.61 in interest, for a total due of \$2,135.94.

3. At the hearing, petitioner Paritosh Kumar De and the Income Tax Bureau both stipulated that agreement had been reached as to all issues involved. Exhibit "C" was introduced to correct the computation of petitioners' 1971 personal income tax liability, attributable to their separate periods of residence and nonresidence during said year. Petitioners submitted payment of the tax shown to be due on Exhibit "C" and requested that they be billed for the correct amount of interest due from the due date of the return to October 20, 1977.

CONCLUSIONS OF LAW

A. That petitioners, Paritosh Kumar De and Ute-Ursula De, changed residence from New York State to New Jersey on August 31, 1971.

B. That petitioners were entitled to a capital loss deduction of \$291.97 during the period in which they were New York State residents.

C. That petitioners' allowable itemized deductions on their 1971 New York State income tax resident return amounted to \$4,834.07 and that the allowable itemized deductions on their 1971 New York State income tax nonresident return amounted to \$782.71.

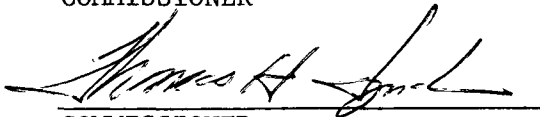
D. That the petition of Paritosh Kumar De and Ute-Ursula De is granted to the extent shown in Conclusions of Law "A", "B" and "C". The Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued January 27, 1975, reducing the personal income tax due from \$1,830.33 to \$400.37, together with such interest as may be lawfully owing from the due date of the return to October 20, 1977 and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
September 20, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER