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STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
PATSY SCARANO d/b/a :
EASY WAY CAR WASH : DETERMINATION
for a Revision of a Determination or :
for Refund of Sales and Use Taxes under :
Articles 28 and 29 of the Tax Law for :
the Period August 1, 1967 through May 31, :
1969. :

Applicant, Patsy Scarano, d/b/a Easy Way Car Wash, 305 Vestal Parkway, East, Vestal, New York 13850, applied for a revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period August 1, 1967 through May 31, 1969.

A formal hearing was held at the offices of the State Tax Commission, State Office Building, Binghamton, New York, on April 24, 1975, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Darwin R. Wales, Esq. and the Sales Tax Bureau was represented by Saul Heckelman, Esq., (Alexander Weiss, Esq. of counsel).

ISSUE

Were the gross receipts of a coin operated car wash without employees subject to sales tax?

FINDINGS OF FACT

1. The taxpayer, Patsy Scarano, d/b/a Easy Way Car Wash, timely filed New York State sales and use tax returns for the period August 1, 1967 through May 31, 1969.
2. A Notice of Determination of sales and use taxes (and penalties) for the period August 1, 1967 through May 31, 1969, was issued on September 25, 1969, against Patsy Scarano, d/b/a Easy Way Car Wash, under Notice No. 90,740,175.
3. The taxpayer applied for a revision of the determination of the deficiencies in sales tax.
4. The parties have agreed to submit and have stipulated the issue is: Were the gross receipts of a coin operated car wash without employees subject to sales tax. The tax in question is based solely on the coins inserted in the car wash machines. There was no issue concerning taxability of soap, towels or the purchase of the car wash machinery itself. The taxpayer's protest asserted that the car wash was a laundry and not subject to sales tax.

CONCLUSIONS OF LAW

- A. The receipts from a car wash are taxable and not exempt as "laundering" under section 1105(c)(3) of the Tax Law that section being applicable only to clothing and cloth fabrics. In re Rondo

Enterprises, Inc., N.Y.T.C. dec. December 23, 1971. Theodore J.

Valenta, d/b/a Hooper Road Car Wash, N.Y.T.C. dec. May 30, 1975.

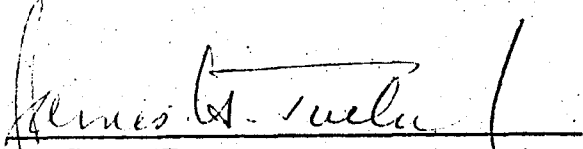
B. The taxpayer's application is denied and the deficiency in sales tax is sustained.

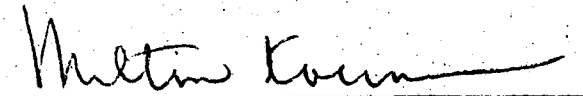
C. The taxpayer acted in good faith and the penalties are cancelled.

D. Pursuant to the Tax Law, interest shall be added to the full amount due until paid.

DATED: Albany, New York
December 3, 1975.

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER