

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
SOUTH BAY ELECTRICAL SUPPLY CO., INC.

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Sales and Use :  
Taxes under Article(s) 28 & 29 of the :  
Tax Law for the ~~XXXX(s) or~~ Period(s) :  
May, 1972.

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 8th day of April , 1977, ~~she~~ served the within  
Notice of Determination by ~~(certified)~~ mail upon South Bay Electrical  
Supply Co., Inc. ~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: South Bay Electrical Supply Co., Inc.  
288 Medford Avenue, P.O. Box 151  
Patchogue, 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

8th day of April , 1977.

Bruce Batchelor

Paul Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
SOUTH BAY ELECTRICAL SUPPLY CO., INC.

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Sales and Use :  
Taxes under Article(s) 28 and 29 of the :  
Tax Law for the ~~XXXXXX~~ or Period ~~(X)~~ :  
May, 1972.

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 8th day of April , 1977 , ~~she~~ served the within  
Notice of Determination by (~~certified~~) mail upon Robert M. Rosen, CPA  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Robert M. Rosen, CPA  
544 Broadway  
Massapequa, NY 11758  
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

8th day of April , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

April 8, 1977

TELEPHONE: (518) **457-1723**

South Bay Electrical Supply Co., Inc.  
288 Madford Avenue, P.O. Box 151  
Patchogue, New York

Gentlemen:

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

Please take further notice that pursuant to  
Section(s) **1138 and 1243** 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,

**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 Application	:	
of	:	
SOUTH BAY ELECTRICAL SUPPLY CO., INC.	:	DETERMINATION
for Revision of a Determination or for	:	
Refund of Sales and Use Taxes under	:	
Articles 28 and 29 of the Tax Law for the	:	
Period May, 1972.	:	

---

Applicant, South Bay Electrical Supply Co., Inc., 288 Medford Avenue, Patchogue, New York, has filed an application for revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period May, 1972.

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 29, 1976, at 10:45 a.m. Applicant appeared by Albert Baron, President and Robert M. Rosen, C.P.A. The Sales Tax Bureau appeared by Peter Crotty, Esq., (F. Levitt, Esq. of counsel).

#### ISSUE

Whether the purchase of an aircraft by applicant, South Bay Electrical Supply Co., Inc., was subject to the sales tax.

#### FINDINGS OF FACT and CONCLUSIONS OF LAW

1. Applicant, South Bay Electrical Supply Co., Inc., purchased a 1943 Douglas C47 aircraft for \$65,000.00, in May, 1972.

The applicant did not pay sales tax on this transaction nor was a resale certificate issued.

2. Mr. Albert Baron, President of South Bay Electrical Supply Co., contended that the aircraft was to be resold to the Long Island Ducks, Inc., a professional hockey team of which he is a major stockholder. The sale, however, was never consummated.

3. Applicant, South Bay Electrical Supply Co., Inc., used the aircraft on several occasions to transport the Long Island Ducks, Inc., to their away game sites. Federal Aviation Authority Regulations prohibited the applicant from chartering or charging the hockey team for the use of the aircraft.

4. The applicant also used the aircraft on two occasions for the purpose of conducting company business.

5. That the purchase of an aircraft by the applicant, South Bay Electrical Supply Co., Inc., was a "retail sale" as defined in section 1101(b)(4) of the Tax Law and subject to the imposition of sales tax within the meaning and intent of section 1105(a).

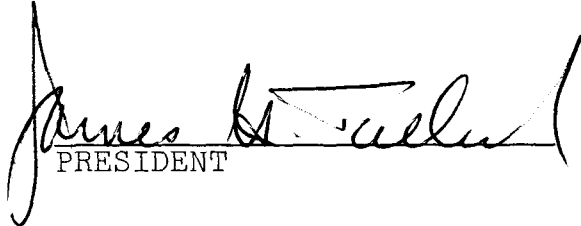
6. That the application of South Bay Electrical Supply Co., Inc. is denied and the Notice of Determination and Demand

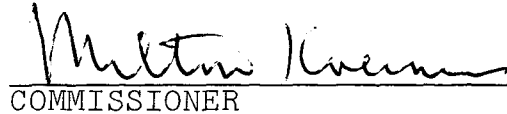
- 3 -

for Payment of Sales and Use Taxes Due in the amount of \$5,186.00,  
issued December 19, 1974, is sustained.

DATED: Albany, New York  
April 8, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER