

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
HUDSON VALLEY APPLE PRODUCTS 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 :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~XXXXX~~ or Period(s) :
June 1, 1973 through April 28, 1976

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 29th day of September , 19 77, she served the within

Notice of Determination by ~~(certified)~~ mail upon Hudson Valley Apple
Products 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: Hudson Valley Apple Products Co., Inc.
P. O. Box 808
Milton, New York 12547

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
~~XXXXXX~~ last known address of the (~~representative of the~~) petitioner.

Sworn to before me this

29th day of September , 1977.

Janet Back

John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

AFFIDAVIT OF MAILING

HUDSON VALLEY APPLE PRODUCTS CO., INC
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 ~~Year(s)~~ or Period(s)
~~June 1, 1973 through April 28, 1976.~~

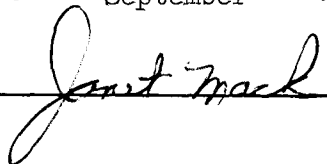
State of New York
County of Albany

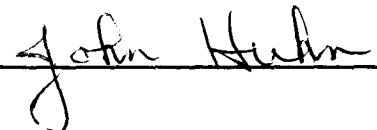
John Huhn, being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 29th day of September, 1977, he served the within
Notice of Determination by ~~registered~~ mail upon Mr. Max Kaplan
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Max Kaplan
69-215 108th Street
Forest Hills, New York 11375
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

29th day of September, 1977







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

September 29, 1977

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

**Hudson Valley Apple Products Co., Inc.
P. O. Box 808
Milton, New York 12547**

Gentlemen:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1138 & 1243** 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 Chyrywaty
Joseph Chyrywaty
Hearing Examiner

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
HUDSON VALLEY APPLE PRODUCTS 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 June 1, 1973 through April 28,	:	
1976.	:	

Applicant, Hudson Valley Apple Products Co., Inc., P.O. Box 808, Milton, New York, 12547, 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 June 1, 1973 through April 28, 1976 (File No. 16356).

A small claims hearing was held before Joseph A. Milack, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 2, 1977 at 2:45 P.M. Applicant appeared by Max Kaplan. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether applicant, Hudson Valley Apple Products Co., Inc., was entitled to a refund of sales taxes of \$3,170.95, paid on the purchase of tangible personal property used in the construction of an industrial water treatment plant.

FINDINGS OF FACT

1. Applicant manufactures apple juice and apple cider.
2. In the course of crushing, washing and processing apples for the production of apple juice and apple cider, applicant discharged waste-water into the waters of the State of New York.
3. In order to comply with Article 12 of the Public Health Law and Article 17 of the Environmental Conservation Law, applicant constructed an industrial water treatment plant to remove pollutants from the waste-water it discharges into the waters of the State of New York.
4. The industrial water treatment plant purifies waste-water discharged from only the production process; no sewer or toilet waste is processed by said industrial water treatment plant.
5. Basically, the industrial water treatment plant consists of machinery and equipment which performs the actual purification of the waste-water, as well as the building which houses said machinery and equipment.
6. During the period June 1, 1973 through April 28, 1976, applicant purchased tangible personal property for use in the construction of the industrial water treatment plant. Said purchases consisted of materials for use in the building itself and the machinery and equipment housed therein.
7. Applicant paid sales tax on the aforesaid purchases of tangible personal property. Applicant applied for a refund of sales tax in the sum of \$3,170.95, paid on purchases which represented

materials used in the construction of the treatment building, as well as the machinery, equipment and parts thereof with a useful life of more than one year.

CONCLUSIONS OF LAW

A. That the purchases of materials for use in the construction of the building are purchases at retail within the meaning and intent of section 1101(b)(1) of the Tax Law and, therefore, are subject to sales tax pursuant to section 1105(a) of said Tax Law.

B. That applicant is not entitled to a refund of the sales taxes paid on its purchases of material for use in the construction of the building.

C. That the machinery, equipment and parts thereof with a useful life of more than one year which applicant has installed as part of the water pollution control system, constitute "machinery and equipment for use or consumption directly and predominantly in the production of tangible personal property" in accordance with the meaning and intent of section 1115(a)(12) of the Tax Law.

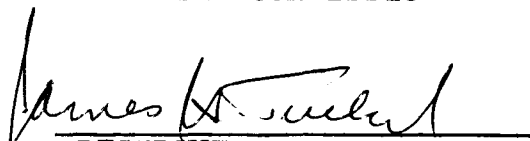
D. That applicant is entitled to a refund of the sales taxes paid on the purchases of machinery, equipment and parts thereof with a useful life of more than one year.

E. That the application of Hudson Valley Apple Products Co., Inc. is granted to the extent indicated in Conclusion of Law "D"; that the Sales Tax Bureau is hereby directed to recompute the applicant's request for refund of sales tax paid; and that, except as so granted, the application is in all other respects denied.

DATED: Albany, New York

September 29, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER