

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

THOMAS A. GALANTE & SONS, 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 ~~Year(s)~~ Period ~~(x)~~
August 1, 1965 through August 31, 1972.

State of New York
County of Albany

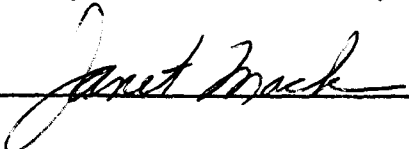
Violet Walker, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of June, 1977, she served the within
Notice of Determination by ~~(certified)~~ mail upon Thomas A. Galante &
Sons, Inc. ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:
Thomas A. Galante & Sons, Inc.
P.O. Box 150
Mechanicville, New York 12118

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

24th day of June, 1977.





STATE OF NEW YORK
STATE TAX COMMISSION

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of Sales and Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~Year(s)~~ Period (x) :
August 1, 1965 through August 31, 1972.

State of New York
County of Albany

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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of June, 1977, she served the within
Notice of Determination by ~~(certified)~~ mail upon Joyce M. Galante

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

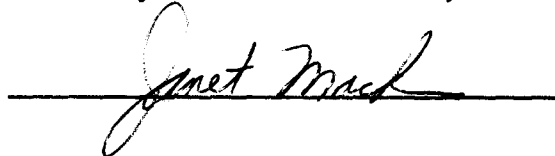
Joyce M. Galante, Esq.
41 Second Street
Troy, New York 12181

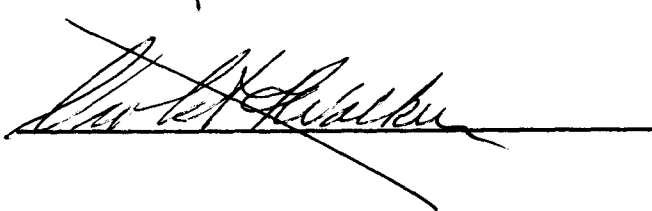
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

24th day of June, 1977.







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

June 24, 1977

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

Thomas A. Galante & Sons, Inc.
P.O. Box 150
Mechanicville, New York 12118

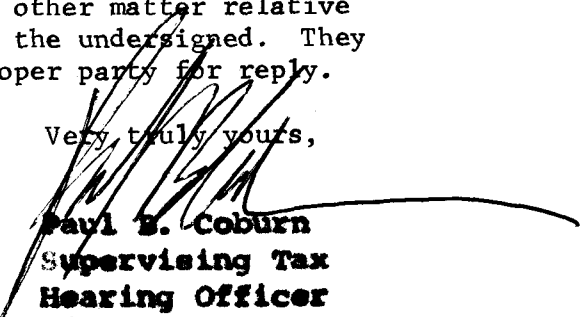
Gentlemen:

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,


Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	DETERMINATION
THOMAS A. GALANTE & SONS, INC.	:	
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 August 1, 1965		
through August 31, 1972.	:	

Petitioner, Thomas A. Galante & Sons, Inc., P.O. Box 150,
Mechanicville, New York 12118, filed a petition 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 August 1, 1965 through August 31, 1972.
(File No. 01465).

A formal hearing was held before Michael Alexander, Hearing Officer,
at the offices of the State Tax Commission, Building 9, State Campus,
Albany, New York on September 2, 1976 at 9:15 A.M.

The petitioner appeared by Joyce M. Galante, Esq. The Sales Tax
Bureau appeared by Peter Crotty, Esq. (Michael Weinstein, Esq., of counsel).

ISSUE

Whether the petitioner is liable for sales tax on the purchase of "wet
felts" which are used in the operation of paper machines to manufacture paper.

FINDINGS OF FACT

1. Petitioner, Thomas A. Galante & Sons, Inc., timely filed New York State sales and use tax returns for the period August 1, 1965 through August 31, 1972.

2. A Notice of Determination and Demand for Payment of Sales and Use Taxes Due for the period August 1, 1965 through February 29, 1968 was issued for New York State sales tax only. Petitioner paid the tax stated thereon, minus certain adjustments made at a conference with the operating bureau, and filed an Application for Credit or Refund of State and Local Sales or Use Tax with regard to the purchase of "wet felts." Subsequently, three similar applications were submitted with regard to the purchase of "wet felts" for the period from March 1, 1968 through August 31, 1972. The total refund or credit claimed for the period from August 1, 1965 through August 31, 1972 is \$4,542.83.

3. Petitioner, Thomas A. Galante & Sons, Inc., was engaged in the manufacture of paper during the period here in question.

4. The Yankee Fourdiner press machine used by petitioner is one hundred seventy inches wide. The paper formed by the machine and the felts on the machine are the same width. The machine produces one hundred tons of paper a day, based on a twenty-four hour-a-day operation.

5. Petitioner, Thomas A. Galante & Sons, Inc., purchases "wet felts" which are specifically designed to fit the machines in petitioner's operation, and are also designed for the type of paper produced and the

hydraulic pressure employed. This "wet felt" is seamless and is placed on the paper producing machine. As such, it constitutes the bottom half of a conveyor belt which moves the raw materials through a number of processes, resulting in the creation of the paper product.

6. Initially the raw materials, consisting of pulp, waste paper, secondary dry fiber and chemical additives, are ground into a "slurry" which is approximately two percent solid. This slurry is transferred to the paper machine and released onto a screen-type fabric. At this stage of the process, water is eliminated to form the rudiments of a sheet of paper which is then transferred to the "pickup felts", the "wet felt" being below the sheet of paper which, although formed at this stage of the operation, is still too liquid in state to hold together without support. At this stage the sheet is twenty five percent dry and seventy five percent wet. The "wet felt", in effect, drives various rolls on the machine, while carrying and supporting the still unformed sheet through these rolls. While so doing, the "wet felt" also performs a "dewatering" function and imparts a finish to the sheet. Finally, the "wet felts" transport the sheet from the various rolls and presses into the driers.

7. The felts are subject to continual hydraulic pressure, the pressure of the rolls, the pressure stemming from high speed operation, and the wear brought on by the drying function. Furthermore, the impurities from the

paper are imparted to the felts, thereby decreasing their usefulness in "de-watering" and reducing the ability of the "felts" to operate at the high speeds required. Bolts or other parts of machinery fall from the machine and present a further hazard to the life of the felts. Such occurrences are not uncommon. Due to all these factors, the average useful life of a "wet felt" in petitioner's operation is six to eight months. Due also to these factors, petitioner always keeps at least one "wet felt" in reserve. The paper press machine cannot function without the "wet felt," which is an integral part of the paper press.

CONCLUSIONS OF LAW

A. That section 1115(a)(12) of the Tax Law, for the years in question, exempts from sales tax the receipts from the sale of machinery or equipment for use directly and exclusively in the production of tangible personal property, but does not so exempt parts with a useful life of one year or less.


B. That the "wet felt" employed by petitioner, Thomas A. Galante & Sons, Inc., although an integral part of the paper machines that are operated in the production of paper, is nevertheless considered to be "parts" within the meaning of section 1115(a)(12). Since the "wet felts" have a useful life of one year or less, the receipts from these felts are not exempt from New York State sales tax.

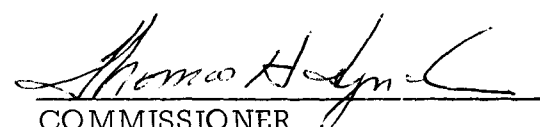
C. That the petition of Thomas A. Galante & Sons, Inc. is denied and the applications for refund or credit for the period from August 1, 1965 through August 31, 1972, are also denied.

DATED: Albany, New York
June 24, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER