

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

AL-VO SIGNS, 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 ~~(s)~~ :
June 1, 1972 through February 28, 1975.

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 13th day of December , 1977, ~~he~~ served the within
Notice of Determination by ~~(certified)~~ mail upon AL-VO Signs, Inc.

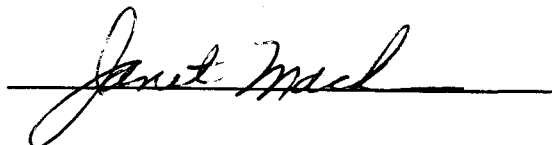
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: AL-VO Signs, Inc.
5988 Jericho Turnpike
St. James, New York 11780

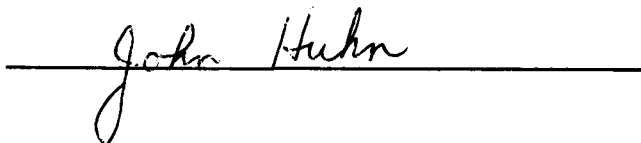
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~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

13th day of December , 1977.





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AL-VO SIGNS, INC.

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For a Redetermination of a Deficiency or :
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of Sales and Use :
Taxes under Article(s) 28 & 29 of the :
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June 1, 1972 through February 28, 1975.

State of New York
County of Albany

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age, and that on the 13th day of December , 1977, ~~he~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Bernard Horwitz

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

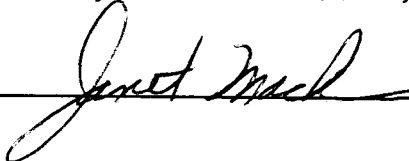
Bernard Horwitz, CPA
Horwitz & Lotierzo
38 Oak Street
Patchogue, New York 11772

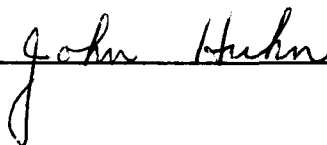
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Sworn to before me this

13th day of December , 1977.







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

December 13, 1977

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

AL-VO Signs, Inc.
5988 Jericho Turnpike
St. James, New York 11780

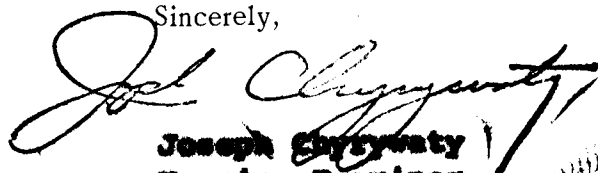
Gentlemen:

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 Chyrczaty
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
AL-VO SIGNS, 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, 1972 through February 28,	:	
1975.	:	

Applicant, Al-Vo Signs, Inc., 5988 Jericho Turnpike, St. James, New York 11780, 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, 1972 through February 28, 1975 (File No. 10447).

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 May 25, 1977 at 1:15 P.M. Applicant appeared by Bernard Horowitz, CPA. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Francis Cosgrove, Esq., of counsel).

ISSUE

Whether signs sold and installed by the applicant constituted capital improvements to real property and were, therefore, not subject to sales tax.

FINDINGS OF FACT

1. As the result of an audit conducted by the Sales Tax Bureau, on November 28, 1975, applicant, Al-Vo Signs, Inc., was issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due in the amount of \$2,304.75, plus penalty and interest. Of the amount alleged to be due, \$1,501.99 (plus penalty and interest) is at issue. This contested amount was derived from sales of a specific type of business sign which applicant reported as non-taxable capital improvements.

2. Applicant was engaged in the manufacturer, sale and installation of metal, aluminum, plastic and various other types of custom-made business signs.

3. Applicant contended that the sales of the signs in question qualified as capital improvements to real property in accordance with a letter written to applicant's accountant by the Sales Tax Bureau.

4. All the signs in question were outdoor electrical signs and were constructed of sheet metal. The signs were affixed to the realty by the applicant. The size of the signs varied, but heavy bolts and brackets were required to secure the signs to the realty.

5. The signs at issue were permanently affixed to the property and were made with replaceable face plates to adjust to any change in owners or tenants of the buildings. In the event that a sign was removed, damage would occur to the building as well as to the sign due to the nature of the supports.

6. The signs which were reported as capital improvement sales were electrically operated and an underwriter's certificate was required before the signs could be installed.

CONCLUSIONS OF LAW

A. That the sale of signs reported by applicant, Al-Vo Signs, Inc., as capital improvements to real property was correctly reported by applicant and was not subject to sales tax.

B. That the applicant properly reported sales as capital improvements to real property for the period June 1, 1972 through February 28, 1975, as sales not subject to sales tax.

C. That the application of Al-Vo Signs, Inc., is granted to the extent of reducing the amount of additional tax due from \$2,304.75 to \$802.76, plus interest at the minimum statutory rate; that the Sales Tax Bureau is hereby directed to accordingly modify the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued against applicant on November 28, 1975, and that, except as so granted, the application is in all other respects denied.

DATED: Albany, New York
December 13, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE

TAX APPEALS BUREAU

TO . . . Secretary to the State Tax Commission

Please attach to Determination.

2/6/78

TA-26 (4-76) 25M

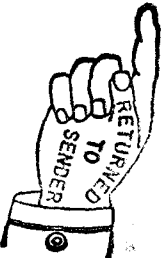
STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

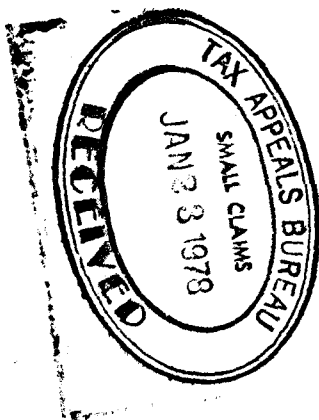


~~AL-VO Signs, Inc.~~
~~5988 Jericho Turnpike~~
~~St. James, New York 11780~~

☒ Advice, full to address
☐ No need to return
☐ No need to return
☐ No need to return



598B
Ferioko
Dunpike



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STATE TAX COMMISSION

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Tax Law for the ~~Year(s) or~~ Period(s) :
6/1/72 through 2/28/75.

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 6th day of February , 1978 , ~~she~~ served the within
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last known address of the (~~representative of the~~) petitioner.

Sworn to before me this

6th day of February , 1978.

Ant Mack

John Huhn