

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

REVERE COPPER and BRASS INCORPORATED

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~CERTIFIED~~ MAIL

For a Redetermination of a Deficiency or
a Refund of Sales and Use
Taxes under Article ~~(x)~~ 28 of the
Tax Law for the ~~years~~ Period 8/01/65:
to 8/31/67.

State of New York
County of Albany

Donna Scranton, 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 13th day of May, 1976, she served the within
Notice of ~~Decision~~ (or Determination) by (~~certified~~) mail upon Revere Copper
and Brass Incorporated (~~representative of~~) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Revere Copper and Brass Incorporated
Rome, 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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (~~representative~~
~~of~~) 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 May, 1976.

Janet M. [Signature]

Donna Scranton

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

REVERE COPPER and BRASS INCORPORATED

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~(CERTIFIED)~~ MAIL

For a Redetermination of a Deficiency or
a Refund of Sales and Use
Taxes under Article ~~(s)~~ 28 of the
Tax Law for the ~~Year(s)~~ Period 8/01/65:
to 8/31/67.

State of New York
County of Albany

Donna Scranton, 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 13th day of May, 1976, she served the within
Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon Joseph H.
Murphy, Esq. (representative of) the petitioner in the within

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

Joseph H. Murphy, Esq.
Hancock, Estabrook, Ryan, Shove & Hust
One Mony Plaza
Syracuse, New York 13202

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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 May, 1976

Janet Mack

Donna Scranton



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

DATED: Albany, New York
May 13, 1976

TELEPHONE: (518) 457-3850

Revere Copper and Brass Incorporated
Rome, 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 & 1243** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within
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 Application	:	
of	:	
REVERE COPPER and BRASS INCORPORATED	:	DETERMINATION
for Revision of a Determination or for	:	
Refund of Sales and Use Tax under	:	
Article 28 of the Tax Law for the Period	:	
from August 1, 1965 to August 31, 1967.	:	

Applicant, Revere Copper and Brass Incorporated, Rome, New York, filed a timely notice for revision of a Sales Tax Bureau determination dated October 31, 1968. (Notice No. 90,756,544) imposing an additional use tax in the amount of \$4,225.80 for the period from August 1, 1965 through August 31, 1967. Applicant, Revere Copper and Brass Incorporated, waived a formal hearing and requested, in writing, that the State Tax Commission decide the case upon the entire record in the file, including a stipulation of facts executed by counsel for the respective parties.

The State Tax Commission has reviewed the entire file, and upon due deliberation, issues the following determination.

ISSUE

The issue is whether roll grinders which grind and dress the surface of rolls used to reduce copper from cakes or bars to sheets, strips or coils are "...machinery or equipment for use or consumption directly and exclusively in the production of tangible personal property...for sale, by manufacturing..." within the meaning of the Tax Law, section 1115(a)(12) so as to be exempt from tax on retail sales under section 1105(a) and the compensating use tax under section 1110 of the Tax Law.

FINDINGS OF FACT

1. Applicant, Revere Copper and Brass Incorporated, was a Maryland corporation which qualified to do business in New York State and maintained offices in Rome, New York, during the period from August 1, 1965 to August 31, 1967.

2. The principal business of the applicant, Revere Copper and Brass Incorporated, is processing of nonferrous metals for sale by it in the regular course of its business.

3. As a part of its processing nonferrous metals for sale, the applicant maintained what is known as a "rolling mill" at Rome, New York.

4. In the processing of nonferrous metals for sale by the applicant, copper, in the form of cakes or bars, weighing as much as 19,200 pounds, is heated to approximately 1600 degrees Fahrenheit. Then, by a multi-step process and while still hot, it is formed into a sheet, strip or coil, according to the shape specified by the customer, by rolling and/or squeezing until the desired form is obtained. This reduction in thickness and consequent shaping and elongation usually results in a great extension in length. A heated copper cake or bar which originally enters the rolling process may, for example, be six feet long, one foot wide and five inches thick upon entry. Part-way through the rolling process it may have been run down to 150 feet in length, one foot in width and one-half inch in thickness. It may ultimately be reduced to a strip fifteen miles in length.

5. The measurements of the end product are extremely precise and customer requirements very high. Metals sold must have a micro-finish with an exact and uniform degree of flatness, contour or roundness. An extremely high degree of polish and smoothness is absolutely essential. Furthermore, the finished metal must be of extremely high quality and free of imperfection.

6. During the period 1965-1967, the applicant greatly expanded its rolling mill at Rome. Whereas, prior to this time, its equipment was capable of handling an entering piece of copper weighing 2,000 pounds, as a result of this expansion, it could handle a cake or bar with an entry weight of 19,200 pounds.

7. In the expanded rolling process, there is a vertical roll stand or frame. It contains the bearing ends for the rolls and their driving gears. It also supports the various devices, including gauges, which measure the dimensions of the end product.

8. The steel rolls are held in this vertical roll stand or frame. They have a surface that is five feet wide, and a diameter of three feet. They weigh about 25,000 pounds each. To achieve the desired degrees of flatness and contour in the finished product, the rolls are crowned--i.e. the diameter is slightly greater in the middle than at the ends.

9. Because the requirements for the end product are so exacting, the surface condition, face contour, roundness and diameter of the rolls are critical to the rolling operation and they are held to an extremely high degree of precision.

10. Rolls are frequently mounted in pairs. The pressure on the metal results from pressure applied at the bearing ends of the rolls.

Further pressure may be provided by mounting rolls four high. In this situation, the work rolls between which the metal passes are held in place and pressure exerted by the back-up rolls, mounted one above and one below the work rolls. This alignment tends to reduce flexing distortion in the working rolls.

11. The rolling of metal is performed by passing it between the rolls, with each pass reducing the thickness or gauge of the metal. Since the metal moves horizontally, the rotation axis of the rolls is also horizontal.

12. In the hot rolling of copper from cakes to bars, sheets and strips, the rolls continuously pick up copper from the hot metal cake or bar, leaving a thin layer of copper on the roll body. This continuously builds up and distorts the contour of the roll so that it does not produce a result of the desired size, contour and flatness. Furthermore, this copper build-up or glaze on the roll, in addition to other effects of the rolling process, affects the crowning of the roll and destroys its polish, thus resulting in a distorted and rough product. All of these conditions must be immediately corrected in order to insure the continuous production of a product of desired quality.

13. The function of the roll grinder, which is mounted on a separate base, is to keep the surface of the roll in a continuous condition of proper and precise dressing, enabling it to perform the demanding tasks expected of it with the degree of precision required. The rolls cannot function properly unless they are so dressed at all times.

14. To retain this required condition of precision, the rolls are continuously removed from the roll stand and placed on the roll grinder. The purpose of the roll grinder is to dress the roll surface to the desired condition of high precision, as to smoothness, contour, crowning, diameter and polish, so that it may again be installed in the mill to continue its normal function of reducing and tempering metal. The roll grinder not only removes the copper build-up and glaze, but it also restores the roll to its contoured shape. If this were not done all the time it would be impossible for the company to produce the high-quality, imperfection-free product required by its customers.

15. The roll grinding or dressing is so closely related to the roll function that the grinder is located in an area very close to the roll stand. The use of a separately-mounted grinder is due to the size of the particular units in use: for the smaller units, the dressing/grinding is performed "in place" with swing-arm grinders.

16. The rolls are removed from the roll stand and placed on the roll grinder at very frequent intervals in order to retain the rolls in the desired condition. While the frequency of these intervals depends upon the production being rolled, the temperature of the rolling, the location of the roll stand in the rolling sequence, and many other factors, with certain types of high-quality products, it is necessary to remove the rolls from the mill, grind, clean and polish them as often as every four hours.

17. The hot metal rolls were frequently and regularly removed from the vertical roll stand to the roller grinder to be refurbished and repaired to maintain their efficiency when returned to the vertical roll stand.

CONCLUSIONS OF LAW

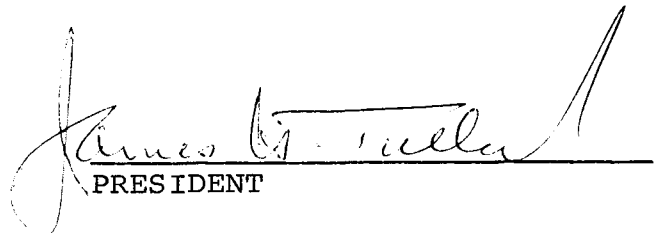
A. That during the periods in issue, the exemption under Tax Law section 1115(a)(12) applied to "...machinery or equipment for use or consumption directly and exclusively in the production of tangible personal property..." In this case, applicant, Revere Copper and Brass Incorporated's roller grinder was used intermittently in maintenance and repair of the hot rolls. The roller grinder was not used directly and exclusively in the production process and therefore the aforesaid exemption was inapplicable.

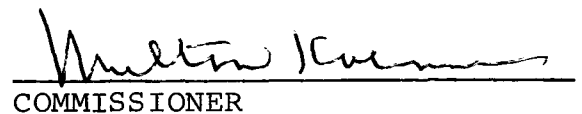
B. That since the facts show that the use of the roller grinder was not "directly and exclusively" in production, it is unnecessary to determine to what extent, if any, the roller grinder was used in production.

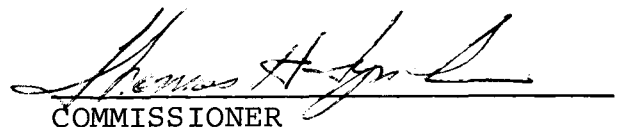
C. That the application of applicant, Revere Copper and Brass Incorporated, is denied and the Notice of Determination dated October 31, 1968, is sustained.

DATED: Albany, New York
May 13, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER