

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

VILLAGE PRINTERS, 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)
December 1, 1972 through August 31, 1975.

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 25th day of August, 1978, she served the within
Notice of Determination by ~~(certified)~~ mail upon Village Printers, Inc.

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Village Printers, Inc.
375 Great Neck Road
Great Neck, New York 11021

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)~~
~~(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

25th day of August, 1978.

[Signature]

John Huhn



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

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

August 25, 1978

**Village Printers, Inc.
375 Great Neck Road
Great Neck, New York 11021**


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 Chyrywat
Hearing Examiner

cc: ~~Richard A. DeSantis~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :

of :

VILLAGE PRINTERS, 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 December 1, 1972 through :
August 31, 1975. :

:

Applicant, Village Printers, Inc., 375 Great Neck Road, Great Neck, New York 11021, 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 December 1, 1972 through August 31, 1975 (File No. 15339).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 1, 1977. Applicant appeared by Walter Slattery, president of Village Printers, Inc. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUE

Whether the audit of applicant's books and records by the Sales Tax Bureau and the findings derived therefrom were proper and correct.

FINDINGS OF FACT

1. Applicant, Village Printers, Inc., timely filed New York State and local sales and use tax returns for the period December 1, 1972 through August 31, 1975.

2. On April 19, 1976 as the result of an audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against applicant for the period December 1, 1972 through August 31, 1975. It reflected a tax due of \$109.43, plus penalty and interest of \$75.47, for a total due of \$184.90.

3. Applicant is in the offset and letterpress printing business, engaged mainly in the manufacture and sale of letterheads, stationery, business cards and scratch pads.

4. An audit of applicant's books and records was conducted by an examiner from the Sales Tax Bureau. Although the gross sales were accepted as reported, the actual sales tax charged and collected was found to be understated by \$109.43 on the sales tax returns filed during the period at issue. This determination was ascertained by comparing applicant's sales tax accrual account with the actual returns filed.

5. Walter Slattery, president of Village Printers, Inc., asserted that applicant initially charged sales tax to all clients, and that upon receipt of an exemption certificate from a tax exempt organization, applicant adjusted its books to eliminate the sales taxes previously charged and reported. In addition, the sales tax reported in a particular quarter was usually adjusted by sales taxes erroneously charged to tax exempt organizations in previous quarters. However, these adjustments were solely a bookkeeping procedure and were never shown on the returns filed with the Sales Tax Bureau. Applicant did not introduce any documentary evidence in support of its contention.

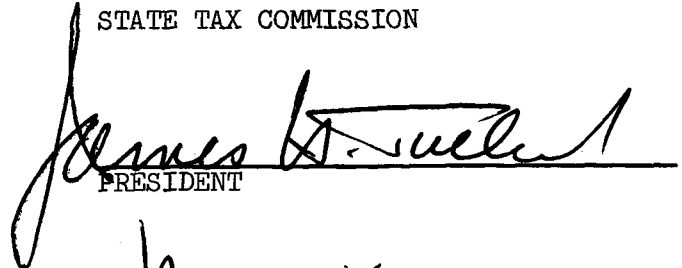
CONCLUSIONS OF LAW

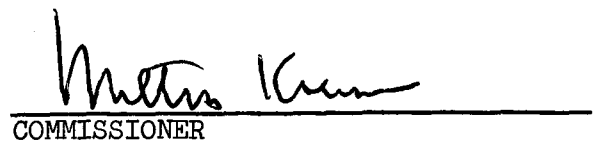
A. That the applicant failed to sustain the burden of proof in establishing that the difference in tax shown on the returns filed and in the tax shown in its sales tax accrual amount, represented adjustments for sales taxes charged and subsequently credited to exempt organizations; therefore, the resultant findings of the Sales Tax Bureau are proper and correct.

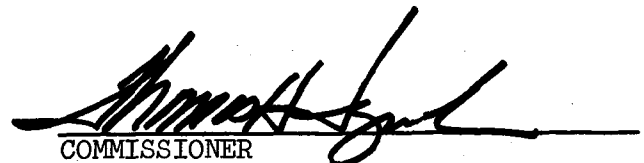
B. That the application of Village Printers, Inc. is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued April 19, 1976 is sustained.

DATED: Albany, New York
August 25, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER