

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
RONALD C. PRYOR
d/b/a R.C. PRYOR COMPANY
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)
August 1, 1965 through May 31, 1975.

AFFIDAVIT OF MAILING

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 15th day of March, 1979, she served the within
Notice of Determination by ~~(certified)~~ mail upon Ronald C. Pryor d/b/a R.C.
Pryor Company ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Ronald C. Pryor
d/b/a R.C. Pryor Company
Main Street
Harriman, New York 10926
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)~~
~~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

15th day of March, 1979.

Marilyn J. Papineau

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

March 15, 1979

Ronald C. Pryor
d/b/a R.C. Pryor Company
Main Street
Harriman, New York 10926


Mr. Pryor:

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: ~~Revisions & Representation~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
RONALD C. PRYOR	:	
d/b/a R.C. PRYOR COMPANY	:	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 August 1, 1965 through	:	
May 31, 1975.	:	

Applicant, Ronald C. Pryor d/b/a R.C. Pryor Company, Main Street, Harriman, New York 10926, 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 August 1, 1965 through May 31, 1975 (File No. 14414).

A small claims hearing was held before Arthur Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 22, 1978 at 10:45 A.M. Applicant appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Abraham Schwartz and Irving Atkins, Esqs., of counsel).

ISSUE

Whether the audit of applicant's books and records conducted by the Sales Tax Bureau properly reflected additional sales taxes due.

FINDINGS OF FACT

1. On April 13, 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 \$613.65, plus penalty and interest of \$367.57, for a total of \$981.22.

2. Applicant is a manufacturer and wholesaler of lamps and lampshades.

3. On audit, the Sales Tax Bureau examined sales invoices for the test quarter of March, April and May of 1974. This examination disclosed the following transactions which were disallowed as nontaxable sales:

a) One retail sale of \$160.58 which was made as an accommodation to a salesman's friend.

b) Sales of \$241.61 which were made to Yield House, a catalog sales company located in New Hampshire. Applicant shipped the merchandise to destinations within New York State for Yield House. The New York State customers purchased the merchandise from Yield House and, as such, the sales from applicant to Yield House constituted sales for resale. Applicant received a properly-completed resale certificate from Yield House.

The total disallowed nontaxable sales of \$402.19 were divided by total sales of \$54,315.86 for the test period, to arrive at an error rate of .0074. The error rate was applied to gross sales for

the audit period, to determine audited taxable sales of \$10,609.24 and tax due of \$613.65.

4. Counsel for the Sales Tax Bureau stipulated for the record that the one retail sale made by applicant as an accommodation to a salesman's friend should be deleted from the audit findings.

CONCLUSIONS OF LAW

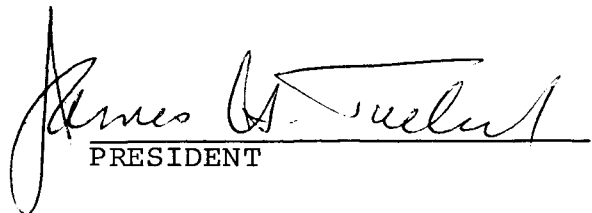
A. That applicant's sales to Yield House were for resale as such; therefore, said sales were not subject to sales tax pursuant to section 1101(b)(4)(i) of the Tax Law. Applicant received a properly-completed resale certificate from Yield House as required by section 1132(c) of the Tax Law.

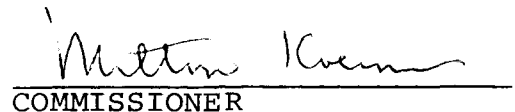
B. That the application of Ronald C. Pryor d/b/a R.C. Pryor Company is granted and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued April 13, 1976 is cancelled.

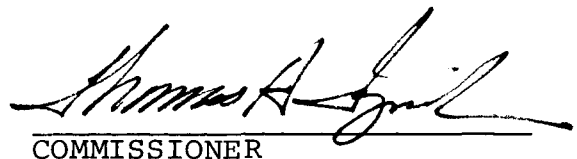
DATED: Albany, New York

STATE TAX COMMISSION

March 15, 1979


PRESIDENT


COMMISSIONER


COMMISSIONER