

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Sunning Restaurant, Inc. :
Peter Chin : AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Sales & Use Tax :
under Article 28 & 29 of the Tax Law :
for the Years 6/1/69-5/31/72. :

State of New York
County of Albany

Jay Vredenburg, 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 26th day of November, 1979, he served the within notice of Determination by mail upon Sunning Restaurant, Inc., Peter Chin, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Sunning Restaurant, Inc.
Peter Chin
97-33 Queens Blvd.
Rego Park, NY 11374

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
26th day of November, 1979.

Joanne Krapp

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Sunning Restaurant, Inc. :
Peter Chin : AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Sales & Use Tax :
under Article 28 & 29 of the Tax Law :
for the Years 6/1/69-5/31/72. :

State of New York
County of Albany

Jay Vredenburg, 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 26th day of November, 1979, he served the within notice of Determination by mail upon Jacob Bressler the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Jacob Bressler
248 Fort Lee Road
Leonia, NJ 07605

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
26th day of November, 1979.

Joanne Krapp

J. Vredenburg

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

November 26, 1979

Sunning Restaurant, Inc.
Peter Chin
97-33 Queens Blvd.
Rego Park, NY 11374

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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Jacob Bressler
248 Fort Lee Road
Leonias, NJ 07605
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
	:	
of	:	
	:	
SUNNING RESTAURANT, INC.	:	DETERMINATION
and	:	
PETER CHIN	:	
Individually and as Officer	:	

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, 1969 through May 31, :
1972. :

Applicants, Sunning Restaurant, Inc., and Peter Chin, individually and as officer, 97-33 Queens Boulevard, Rego Park, New York 11374, 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, 1969 through May 31, 1972 (File No. 12912).

A small claims hearing was held before Raymond J. Siegel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 28, 1978 at 1:15 P.M. and was continued on January 11, 1979 at 1:15 P.M. Applicant appeared by Jacob Bressler, CPA. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Samuel Freund, Esq., of counsel).

ISSUE

Whether the Sales Tax Bureau's determination of additional taxes due from applicant Sunning Restaurant, Inc., based on an audit of said applicant's books and records, is correct.

FINDINGS OF FACT

1. Applicant Sunning Restaurant, Inc. ("Sunning") operated a Chinese restaurant at 97-33 Queens Boulevard, Rego Park, New York.

2. On February 14, 1973 as a result of a field audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against Sunning Restaurant, Inc. and Peter Chin, individually and as officer. Said Notice assessed a tax deficiency of \$8,185.22, plus penalty and interest of \$2,342.10, for a total of \$10,527.32.

3. The hearing held on September 28, 1978 was adjourned with the understanding that Sunning's representative would meet with the Sales Tax Bureau to discuss a possible agreement and/or offer in compromise.

4. A continued hearing was held at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 11, 1979 at 1:15 P.M. Applicants failed to appear at said hearing.

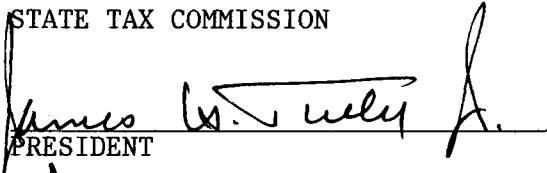
CONCLUSION OF LAW


A. That due to applicants' failure to appear at the continued hearing, the application of Sunning Restaurant, Inc. and Peter Chin, individually and as officer, is denied, and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued on February 14, 1973 is sustained.

DATED: Albany, New York

NOV 26 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER