

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Colarusso Blacktop Corporation :
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 1971, 1972, 1973 & 1974. :

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 18th day of July, 1980, he served the within notice of Determination by mail upon Colarusso Blacktop Corporation, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:


Colarusso Blacktop Corporation
Newman Rd.
Hudson, NY 12534

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
18th day of July, 1980.

Deborah A Bank



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Colarusso Blacktop Corporation :
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 1971, 1972, 1973 & 1974. :

AFFIDAVIT OF MAILING

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 18th day of July, 1980, he served the within notice of Determination by mail upon Walter J. Lawrence 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. Walter J. Lawrence
Pattison, Koskey & Lawrence
502 Union Ave.
Hudson, NY 12534

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
18th day of July, 1980.

Dorothy A. Bank

J. Vredenburg

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

July 18, 1980

Colarusso Blacktop Corporation
Newman Rd.
Hudson, NY 12534

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
Walter J. Lawrence
Pattison, Koskey & Lawrence
502 Union Ave.
Hudson, NY 12534
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
COLARUSSO BLACKTOP CORPORATION	:	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 September 1, 1971 through	:	
August 31, 1974.	:	

Applicant, Colarusso Blacktop Corporation, Newman Road, Hudson, New York 12534, 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 September 1, 1971 through August 31, 1974 (File No. 13046).

A small claims hearing was held before Judy M. Clark, Hearing Officer, at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, on May 22, 1979 at 1:15 P.M. Applicant appeared by Walter J. Lawrence, CPA. The Audit Division appeared by Peter Crotty, Esq. (Paul A. Lafabvre, Esq., of counsel).

ISSUE

Whether a Surge Storage System leased by applicant is machinery or equipment within the meaning and intent of section 1115(a)(12) of the Tax Law.

FINDINGS OF FACT

1. On February 5, 1975, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against the applicant for the period September 1, 1971 through August 31, 1974, for \$2,757.40 tax plus penalties and interest. This Notice was issued as a result of a field audit.

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D. C. 20535

In the matter of the application

JOHN EDGAR HOOVER

FOR A WRIT OF HABEAS CORPUS

The following is a copy of the report of the Federal Bureau of Investigation, dated and captioned as above, which was received by the Department of Justice, Washington, D. C., on the 10th day of June, 1964.

On June 10, 1964, the following information was received from the Federal Bureau of Investigation, Washington, D. C.:

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2. Applicant timely protested the above Notice on April 28, 1975.

3. In the performance of the field audit, the Sales Tax Bureau determined that the lease of a Surge Storage System was not exempt machinery or equipment used directly in production. It contended that this equipment was used for storage by reasoning that the asphalt which is housed in this system is ready for sale and actually sold prior to being placed in the Surge Storage System.

4. The Surge Storage System consists of a hopper which accepts asphalt from a batch plant. It then meters the asphalt onto a conveyor which discharges into a dispenser at the top of a surge silo. The silo consists of insulated walls, roof and floor and contains a heating element to maintain the required temperature to avoid hardening or sticking of the asphalt. A double-clam gate at the bottom of the silo dispenses the asphalt onto trucks for delivery. The system contains no blending unit. The asphalt dropped into the silo is mixed by a surge created by pouring.

5. Prior to the acquisition of the Surge Storage System, the asphalt was loaded onto delivery trucks directly from the batch plant. The time required to fill one truck with a 10-ton capacity was 6 minutes. Since the installation of the Surge Storage System, the time in which a truck can be filled was reduced to 20 seconds. The Surge Silo System does not increase the rate of production. However, the efficiency in distribution was increased because the system which has a 100 ton capacity provides a means of storage.

6. It was contended by the applicant that the system is an extension of the production line in that the system improved the consistency and quality of the product by mixing the entire 100 tons of asphalt together. Most of the product sold by the applicant was used in the paving of highways and subject to the inspection of an engineer from the Department of Transportation. If the product did not meet the standards and wasn't consistent, it was turned down. It was contended that consistency of the product was the prime incentive for acquisition of the equipment.

1. The first of the three is the "General" category, which includes all cases that do not fit into the other two categories. This category is further divided into two sub-categories: "General" and "General".

4. The Commission has been informed that the Government of India has been requested to provide information regarding the status of the Commission's work.

One of the items of a 1960s foreign exchange system was not a 1960s foreign exchange system.

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 or whether it will support the
 Government of the People's Republic of China.

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Journal of Management Studies, 20(6), 791-806.

CONCLUSIONS OF LAW

A. That the Surge Storage System leased by the applicant does not have an active causal relationship in the production of the product to be sold, in that the product is ready for sale (and in fact was sold in that state previous to the installation of the system), at the time it leaves the batch plant. Accordingly, the Surge Storage System is not machinery and equipment within the meaning and intent of Section 1115(a) (12) of the Tax Law.

B. That the application of Colarusso Blacktop Corporation is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued February 5, 1975, is sustained.

DATED: Albany, New York

JUL 18 1980

STATE TAX COMMISSION

James W. Tully
PRESIDENT

Thomas H. Lynch
COMMISSIONER

Francis R. Kolong
COMMISSIONER

1994

1. The first step in the process of the investigation is the identification of the subject. This is done by the investigator who is assigned to the case. The investigator will then attempt to determine the subject's background, including their education, employment, and social contacts. This information is then used to develop a profile of the subject and to determine the scope of the investigation.

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John R. Dineen