

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of

Jack Davis :
officer of Jado Enterprises, Inc.

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 Period 9/1/73 - 11/30/74. :

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 17th day of October, 1980, he served the within notice of Decision by mail upon Jack Davis, officer of Jado Enterprises, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Jack Davis
officer of Jado Enterprises, Inc.
28211 N.E. 163rd Street
N. Miami, FL 33160

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
17th day of October, 1980.

Suzanne A. Bank

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Jack Davis :
officer of Jado Enterprises, Inc. : 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 Period 9/1/73 - 11/30/74. :

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 17th day of October, 1980, he served the within notice of Decision by mail upon Leonard Bloomgarden the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

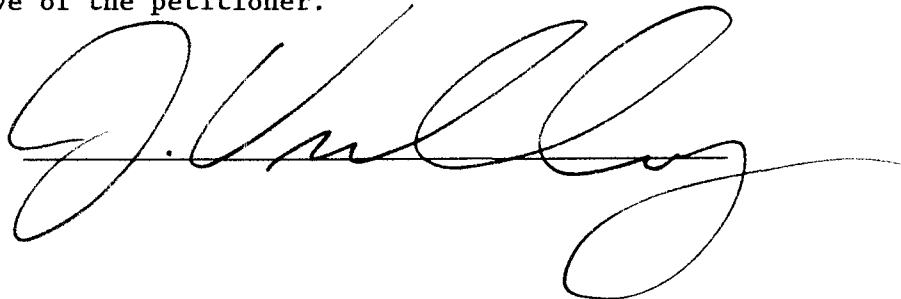
Mr. Leonard Bloomgarden
Bloomgarden & Bloomgarden
89-02 Sutphin Blv.
Jamaica, NY 11435

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
17th day of October, 1980.

Ruth A. Bank



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

October 17, 1980

Jack Davis
officer of Jado Enterprises, Inc.
28211 N.E. 163rd Street
N. Miami, FL 33160

Dear Mr. Davis:

Please take notice of the Decision 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
Leonard Bloomgarden
Bloomgarden & Bloomgarden
89-02 Sutphin Blv.
Jamaica, NY 11435
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of :

JACK DAVIS,
OFFICER OF JADO ENTERPRISES, INC. :

DECISION

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, 1973 through
November 30, 1974.

Petitioner, Jack Davis, Officer of Jado Enterprises, Inc., 2821 N.E. 163rd Street, No. Miami, Florida 33160, filed a petition 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, 1973 through November 30, 1974 (File No. 18886).

A small claims hearing was held before Judy M. Clark, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 28, 1979 at 2:45 P.M. Petitioner appeared by Leonard Bloomgarten, Esq. The Audit Division appeared by Ralph J. Vecchio, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether penalties and interest paid by petitioner in excess of the minimum statutory rate should be abated.

FINDINGS OF FACT

1. On March 28, 1977, the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against Jack Davis as officer of Jado Enterprises, Inc. for the period September 1, 1973 through November 30, 1974 in the amount of \$5,179.53 tax, plus penalties and interest.

IN THE MATTER OF THE ESTATE OF

DECEASED

ADMINISTRATIVE PROCEEDING

For Division of the Court of Appeals
for the Second Circuit
in the City of New York
in the County of New York
in the State of New York

IN SENATE, January 10, 1954

REPORT OF THE COMMISSIONER OF THE DEPARTMENT OF SOCIAL SERVICES

ON THE MATTER OF THE ESTATE OF

ADMINISTRATIVE PROCEEDING

1954

A bill for a law to amend the Social Security Act

and the Social Security Administration Act

and to amend the Social Security Act

and to amend the Social Security Act

(House Report No. 1000)

1954

IN SENATE, January 10, 1954

ADMINISTRATIVE PROCEEDING

1954

IN SENATE, January 10, 1954

ADMINISTRATIVE PROCEEDING

ADMINISTRATIVE PROCEEDING

ADMINISTRATIVE PROCEEDING

2. The Notice was reduced by the Audit Division to reflect tax due of \$3,362.85. The September 1 through November 30, 1973 quarter was barred by the statute of limitations and was deleted from the assessment. Petitioner paid the revised tax, penalties and interest of \$5,739.37. The penalties and interest in excess of the minimum statutory rate were paid under protest.

3. The sales and use tax returns for the periods in issue were filed beyond the due dates.

4. It was the Audit Division's position that the penalties and interest should be sustained on the grounds that the sales tax returns were not timely filed and vendor failed to amend its reporting method as a result of a prior audit.

5. Petitioner conceded that the returns for the periods in issue were filed late. He argued that the appropriate penalties and interest were included with the late filed returns; and therefore, the penalties and excess interest regarding the additional assessment should be abated because the delay was not unreasonable. He also argued that a change in reporting methods was not made because the prior audit results were not adjusted and agreed to until December 18, 1974.

6. No reasonable cause was shown for the late filing of the returns.

CONCLUSIONS OF LAW

A. That the additional taxes determined due on audit were due at the time the returns were required to be filed; that the vendor consistently filed its sales and use tax returns beyond the due date. Therefore, the penalties and interest as provided by section 1145(a)(1) of the Tax Law were properly imposed. That no evidence was submitted to show that the delay in paying over the tax was excusable.

B. That the Notice of Determination and Demand for Payment of Sales and Use Taxes Due as revised (per Finding of Fact "2") is sustained; and the petition of Jack Davis, Officer of Jado Enterprises, Inc., is denied.

DATED: Albany, New York

OCT 17 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

OCT 17 1980

James W. Smith
James W. Smith
James W. Smith