

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Norwich Mills 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 9/1/68 - 5/31/70. :

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 16th day of October, 1980, he served the within notice of decision by mail upon Norwich Mills Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Norwich Mills Inc.
96 East Main St.
Norwich, NY 13815

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
16th day of October, 1980.

Detora L. Bank



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Norwich Mills Inc. :
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 9/1/68 - 5/31/70. :

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 16th day of October, 1980, he served the within notice of decision by mail upon John H. Hartman the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

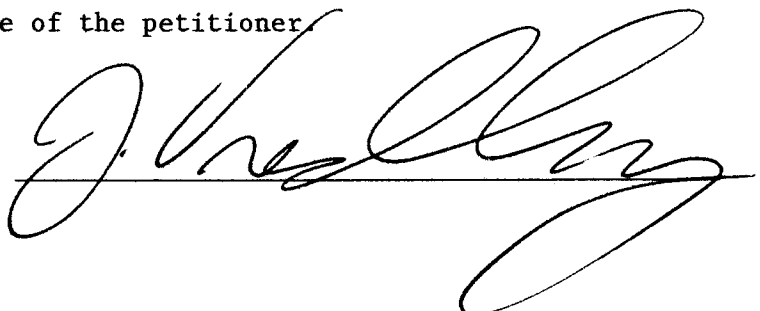
Mr. John H. Hartman
Levene, Gouldin & Thompson
902 Press Bldg., P.O. Box F-1706
Binghamton, NY 13902

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
16th day of October, 1980.

Dorothy A. Bank



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

October 16, 1980

Norwich Mills Inc.
96 East Main St.
Norwich, NY 13815

Gentlemen:

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
John H. Hartman
Levene, Gouldin & Thompson
902 Press Bldg., P.O. Box F-1706
Binghamton, NY 13902
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
NORWICH MILLS, 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, 1967 through	:	
May 31, 1970.	:	

Petitioner, Norwich Mills, Inc., 96 East Main Street, Norwich, New York 13815, filed a petition for revision of a determination or for refund of sales and use taxes due under Articles 28 and 29 of the Tax Law for the period September 1, 1967 through May 31, 1970 (File No. 01873).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, 1 Marine Midland Plaza, Rochester, New York, on July 26, 1979 at 10:45 A.M. Petitioner appeared by John H. Hartman, Esq. The Audit Division appeared by Peter Crotty, Esq. (Barry Bresler, Esq., of counsel).

ISSUE

Whether certain chemicals purchased by petitioner for use in its cloth processing operation were exempt from the imposition of sales and use taxes, i.e., chemicals used to bleach, to control static in cloth and to soften cloth.

FINDINGS OF FACT

1. On November 2, 1970, petitioner filed a consent extending period of limitation for assessment of sales and use taxes under Articles 28 and 29 of the Tax Law to March 20, 1971.

2. On March 17, 1971, the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against Norwich Mills, Inc. for the period September 1, 1967 through May 31, 1970 in the amount of \$15,994.17, plus penalty and interest of \$3,970.53, for a total of \$19,964.70. Payment had been made on many items. A balance remains of the tax due in the amount of \$6,240.53 upon those items remaining in issue.

3. Petitioner was a clothing manufacturer with a principal place of business in Norwich, New York. The Norwich facility was involved in the purchase of materials, manufacturing those materials into textile products, finishing the manufactured materials and the cutting and sewing of these fabrics into garments.

4. Petitioner, in its manufacturing process, used various chemicals in its bleaching and finishing processes. These are chemical bleaches, chemicals used to control static in cloth and chemicals used to soften cloth. In the process, it was ascertained by its chemist that of the chemicals used in bleaching, 25 percent to 30 percent of the chemical remained in the finished material as did 40 percent to 50 percent used to control static and to soften the cloth.

CONCLUSIONS OF LAW

A. That section 1101(b)(4)(i) defines retail sale as "A sale of tangible personal property to any person for any purpose, other than (A) for resale as such or as a physical component part of tangible personal property..." (emphasis added).

That section 1118(4) provides an exemption for the "use of property which is converted into or becomes a component part of a product produced for sale by the purchaser" (emphasis added).

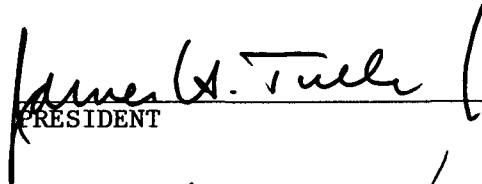
That the various chemicals used by petitioner were purchased for resale as a physical component part of tangible personal property pursuant to section 1101(b)(4)(i)(A) and became a component part of a product produced for sale pursuant to section 1118(4). That while only an amount remains in the finished product, the degree of consumption was not made a statutory factor and the ordinary meaning of a "component" is certainly broad enough to include detectable materials contained in a finished whole (Finch, Pruyn & Co., Inc. v. State Tax Commission, 69 A.D.2d 192, 419 N.Y.S.2d 232).

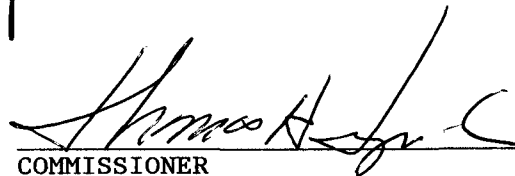
B. That the petition of Norwich Mills, Inc. is granted and the balance due of the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued on March 17, 1971 is cancelled.

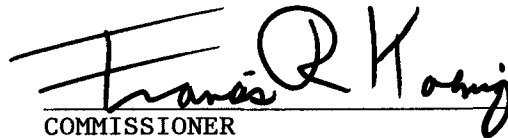
DATED: Albany, New York

STATE TAX COMMISSION

OCT 16 1980


PRESIDENT


COMMISSIONER


COMMISSIONER