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STATE OF WISCONSIN  
TAX APPEALS COMMISSION

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GENE W. SEIDLER, d/b/a SEIDLER TOOL CO. 606 E. Otjen Street Milwaukee, WI 53207-1613	*	
	*	
Petitioner,	*	DOCKET NO. 94-S-72
	*	
vs.	*	RULING AND ORDER
	*	
WISCONSIN DEPARTMENT OF REVENUE P.O. Box 8933 Madison, WI 53708	*	ON MOTION TO DISMISS
	*	
Respondent.	*	PETITION FOR REVIEW
	*	(Late filing)
	*	

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Pursuant to its notice, this commission convened in Room 45, State Office Building, 819 North 6th Street, Milwaukee, Wisconsin, at 1:30 p.m., on July 6, 1994, for the purpose of hearing the respondent's motion to dismiss the petition for review in Docket No. 94-S-72 on the following grounds:

That the petitioner failed to file a proper petition for review within 60 days after receipt of the respondent's notice of denial of the petition for redetermination as required by § 73.01(5) (a), Stats., and therefore, the State of Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

The petitioner, Gene W. Seidler, d/b/a Seidler Tool Co., appeared by Gene W. Seidler. The respondent, Wisconsin Department of Revenue, appeared by its attorney, Michael J. Buchanan.

The respondent made motion to dismiss the petition for review on the grounds stated above. The petitioner objected to the granting of the motion. The parties offered oral arguments in support of and in opposition to the motion.

Having considered the pleadings, the record, the motion, and the arguments of the parties thereon, this commission finds as

#### FINDINGS OF FACT

1. By notice dated April 22, 1993, the respondent made an assessment of sales and use tax against the petitioner in the amount of \$38,419.25, including interest.

2. On June 22, 1993, the petitioner filed a petition for redetermination with the respondent.

3. By notice dated December 15, 1993, mailed to petitioner by certified mail, return receipt requested, and received by petitioner on December 16, 1993, the respondent denied the petitioner's petition for redetermination.

4. The petitioner's petition for review relating to the respondent's action on the petition for redetermination was received by certified mail, return receipt requested, postmarked February 15, 1994 and filed in the office of the Wisconsin Tax Appeals Commission on February 17, 1994.

5. The 60-day period provided in § 73.01(5)(a), Wis. Stats., for filing a proper petition for review with this commission expired on February 14, 1994.

6. The provisions of § 77.59(6)(b), Wis. Stats., make applicable to sales tax appeals the law governing income tax

appeals.

7. The respondent has shown good cause and sufficient grounds for the granting of its motion.

8. Under the provisions of § 73.01(5)(a), Wis. Stats., the petitioner failed to file a proper petition for review within 60 days after receipt of the respondent's notice of denial of the petitioner's petition for redetermination; therefore, the Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

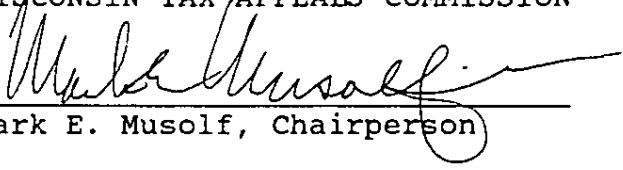
Therefore,

**IT IS ORDERED**

That the petition for review in the above-entitled matter be dismissed.

Dated at Madison, Wisconsin, this 15th day of July, 1994.

WISCONSIN TAX APPEALS COMMISSION

  
\_\_\_\_\_  
Mark E. Musolf, Chairperson

(Approved)  
\_\_\_\_\_  
Thomas R. Timken, Commissioner

  
\_\_\_\_\_  
Joseph P. Mettner, Commissioner

pc: Petitioner  
Respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"

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