

BF&R Docket No. 1514909
Petition Filed: 2/3/2016
License No. [REDACTED]
IN RE: CB H2O LP
PETITION FOR Review of Refund for Sales/Use Tax
PERIOD(S) 8/5/2012 to 8/5/2015

AND NOW, July 7, 2016, pursuant to the Fiscal Code, the Act of 1929, April 9, P.L. 343, as amended, (72 P.S. § 1 et seq), the Board of Finance and Revenue of the Commonwealth of Pennsylvania, based upon the reasons set forth herein, hereby ORDERS the following:

Jurisdiction

This petition comes before the Board of Finance and Revenue pursuant to Section 2704 of the Tax Reform Code of 1971, *as amended*, 72 P.S. § 9704.

Issue

Whether Petitioner has established that it is entitled to a refund of tax paid on nontaxable construction activities.

Statement of the Case

Petitioner, CB H2O LP, operates a snow ski/water park resort that operates as Camelback in Tannersville, Pennsylvania. Petitioner seeks a refund in the amount of \$[REDACTED] representing Pennsylvania sales tax paid on various purchases. Proof of payment was established at the Board of Appeals.

Petitioner requests a refund of tax paid on certain purchases because they constitute nontaxable construction activities. The transactions involve the installation of a roller coaster. Petitioner had provided pictures in support of its claim.

The Board of Appeals concluded that the transactions appear to be the purchase of taxable tangible personal property. The Board further concluded that the submitted documentation failed to demonstrate the manner in which the property was installed; thus, it could not be determined that the property became a permanent part of the real estate.

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on July 13, 2016

Conclusion

Petitioner has failed to establish that the property in question became a permanent part of the real estate upon installation. Based on the manner of affixation, the Board concludes that the property retains its identity as tangible personal property. Consequently, no relief can be granted.

ORDER

This petition is denied.

By Order Of The Board Of Finance And Revenue

Jacqueline A. Cook, Chair
Designee for Timothy A. Reese, State Treasurer

David R. Kraus, Board Member

R. Scott Shearer, Board Member

