



BEFORE THE STATE BOARD OF EQUALIZATION'
OF THE STATE OF CALIFORNIA

In the **Matter** of the Appeal of)
NITTY GRITTY PRODUCTIONS)

For Appellant: C. R. E. Smith
Attorney at Law

For Respondent: Gary M. Jerrit
Counsel

O P I N I O N

This appeal is made pursuant to section 25666 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Nitty Gritty Productions against proposed assessments of additional franchise tax in the amounts of \$11,607 and \$2,777 for the income years ended January 31, 1978, and **January** 31, 1979, respectively.

Appeal of Nitty Gritty Productions

The question presented is whether appellant has shown any error in respondent's proposed assessments, which were based on a federal audit report.

The assessments at issue were based on final federal audit changes which, in substance, required appellant to change from the cash method to an **accrual** method of accounting, in order to clearly reflect its income. The basis for the federal action **was** a determination by the Internal Revenue Service that appellant was the actual owner of inventory that its parent corporation had bought and stored for eventual use in appellant's business.

It is well settled that a deficiency assessment based on a federal audit report is presumptively correct, and that the taxpayer bears the burden of proving that respondent's assessment is erroneous. (Appeal of Donald G. and Franceen Webb, Cal. St. Bd. of **Equal.**, Aug. 19, 1975; Appeal of Nicholas H. Obritsch, Cal. St. Bd. of **Equal.**, Feb. 17, 1959.) In this case, appellant has wholly failed to produce any evidence in support of its position that the assessments are wrong. **Consequently, we** can only conclude that it **has failed** to satisfy its burden of proof. For that reason, respondent's action in this matter will be sustained.,

Appeal of Nitty Gritty Productions

O R D E R

Pursuant to the views expressed in the opinion Of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, . pursuant to section 25667 of the Revenue and Taxation Code, that the **action of** the Franchise Tax Board on the protest of Nitty Gritty Productions against proposed assessments of additional franchise tax in the amounts of \$11,607 and \$2,777 for the income years ended January 31, 1978, and January 31, 1979, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this **31st** day of January ,**1984**, by the State Board of Equalization, with Board **Members** Mr. Nevins, Mr. Dronenburg, Mr. Collis, Mr. Bennett and Mr. Harvey present.

Richard Nevins , Chairman
Ernest J. Dronenburg, Jr. , Member
Conway H. Collis , Member
William M. Bennett , Member
Walter Harvey* , Member

*For Kenneth Cory, per Government Code section 7.9