

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
RAPHY BITTON : **DETERMINATION**
for Revision of Determination or for Refund : DTA NO. 825851
of Sales and Use Taxes under Articles 28 :
and 29 of the Tax Law for the Period :
March 1, 2005 through February 28, 2006. :
:

Pursuant to Tax Law § 170(3-a)(e), the Division of Tax Appeals lacks jurisdiction to consider the merits of a petition filed in excess of ninety (90) days following the issuance of a BCMS conciliation order.

It appears that the conciliation order under protest in this matter, CMS No. 224707, was issued to petitioner on May 15, 2009. However, the petition was not filed with the Division of Tax Appeals until August 19, 2013, or one thousand five hundred and fifty seven (1,557) days later.

Pursuant to 20 NYCRR 3000.9 of the Rules of Practice and Procedure of the Tax Appeals Tribunal, the Division of Tax Appeals issued a Notice of Intent to Dismiss Petition on January 15, 2014 informing the parties of the basis for the intended dismissal.

No response having been received from the petitioner as of this date; therefore,

IT IS ORDERED, on the administrative law judge's own motion, that the petition be, and it is hereby, dismissed with prejudice as of this date.

DATED: Albany, New York
May 7, 2014

/s/ Daniel J. Ranalli
Daniel J. Ranalli
Supervising Administrative Law Judge