

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :

of :

MASTIC VILLAGE DELI CORPORATION :

DETERMINATION

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 Ended
May 31, 2013.

DTA NO. 826022

Pursuant to § 3000.3(d)(1) of the Rules of Practice and Procedure of the Tax Appeals Tribunal, where the petition is not in the form required, the supervising administrative law judge shall promptly return it to the petitioner together with a statement indicating the requirements with which the petition does not comply, and extend to the petitioner an additional thirty (30) days within which to file a corrected petition with the supervising administrative law judge.

In conformity with § 3000.3(b)(8) of the Rules of Practice and Procedure of the Tax Appeals Tribunal, the petition shall contain a copy of the order of conciliation issued or other statutory notice being protested. Petitioner did not include the required statutory notice. Therefore the petition is not in proper form.

In addition, § 3000.2(c)(1) of the Rules of Practice and Procedure of the Tax Appeals Tribunal, requires a power of attorney wherever a petitioner acts through a representative. An individual will not be recognized as the representative of a taxpayer until a power of attorney in proper form is filled with the Division of Tax Appeal. In this case, the petitioner did not file a power of attorney, and as a result the petition was signed by an individual with no authority to do so.

Pursuant to § 3000.9(a)(4) 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 July 18, 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
September 29, 2014

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