

STATE OF NEW YORK

TAX APPEALS TRIBUNAL

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In the Matter of the Petition	:	
of	:	
<b>ANWAR AND ANNETTE RIAD</b>	:	ORDER DTA NO. 818558
for Redetermination of a Deficiency or for Refund of New York State Personal Income Tax under Article 22 of the Tax Law for the Years 1996 and 1997.	:	

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On January 29, 2004, petitioners Anwar and Annette Riad, 23 Phaeton Drive, Melville, New York 11747, made a motion to the Tax Appeals Tribunal (hereinafter the "Tribunal") for reargument of the Tribunal's decision dated October 2, 2003. Petitioners appeared *pro se*. The Division of Taxation appeared by Mark F. Volk, Esq. (Barbara J. Russo, Esq., of counsel).

NOW, upon reading the January 29, 2004 letter of petitioner Anwar Riad in support of the motion to reargue and the February 9, 2004 letter of the Division of Taxation in opposition to the motion, and due deliberation having been had thereon, the Tax Appeals Tribunal renders the following order.

***FINDINGS OF FACT***

We find the following facts.

In ***Matter of Riad*** (Tax Appeals Tribunal, October 2, 2003), after reviewing the arguments presented on exception and the record of the proceeding before the Administrative Law Judge, this Tribunal affirmed the Administrative Law Judge's determination that petitioners did not prove that they were entitled to deduct certain claimed business expenses for 1996 and 1997.

We

decided that the Administrative Law Judge had completely and adequately addressed the issues presented to him. We found that petitioners had offered no evidence at the hearing before the Administrative Law Judge nor any arguments on exception that demonstrated that the Administrative Law Judge's determination was incorrect.

**OPINION**

A motion to reargue is based on no new proof, seeking only to convince the court that it was wrong and ought to change its mind (Siegel, NY Prac § 254, at 383 [2d ed]). There is no statutory authority for this Tribunal to reconsider its decisions and, therefore, our authority to do so as a quasi-judicial body is limited (*Matter of Trieu*, Tax Appeals Tribunal, June 2, 1994, *confirmed Matter of Trieu v. Tax Appeals Tribunal*, 222 AD2d 743, 634 NYS2d 878, *appeal dismissed* 87 NY2d 1054, 644 NYS2d 146; *Matter of Jenkins Covington, N.Y. v. Tax Appeals Tribunal*, 195 AD2d 625, 600 NYS2d 281, *lv denied* 82 NY2d 664, 610 NYS2d 151).

A motion to reargue is intended to affect a prior order or decision.

A motion for reargument, addressed to the discretion of the court, is designed to afford a party an opportunity to establish that the court overlooked or misapprehended the relevant facts, or misapplied any controlling principle of law. Its purpose is not to serve as a vehicle to permit the unsuccessful party to argue once again the very questions previously decided (*Foley v. Roche*, 68 AD2d 558, 418 NYS2d 588, 593, *lv denied* 56 NY2d 507, 453 NYS2d 1025).

Our decision in *Riad* was reached after a thorough review of the entire record in the matter and the relevant law. The motion before us indicates no circumstances which would allow us to reconsider this decision.

Accordingly, it is ORDERED, ADJUDGED and DECREED that the motion for reargument of Anwar and Annette Riad be, and the same hereby is, denied.

DATED: Troy, New York  
March 18, 2004

/s/Donald C. DeWitt

Donald C. DeWitt

President

/s/Carroll R. Jenkins

Carroll R. Jenkins

Commissioner