

STATE OF NEW YORK

TAX APPEALS TRIBUNAL

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In the Matter of the Petition	:	
of	:	
<b>MABOOB CORPORATION</b>	:	<b>DECISION</b>
	:	DTA NO. 828846
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 September 1, 2014	:	
through May 31, 2017.	:	

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Petitioner, Maboob Corporation, filed an exception to the small claims determination of the Presiding Officer, issued on August 26, 2021. On October 4, 2021, the Tax Appeals Tribunal (Tribunal) issued a notice of intent to dismiss exception on the ground that it lacks jurisdiction to review the small claims determination of the Presiding Officer. The Tribunal granted the parties until November 8, 2021 to respond. The Division of Taxation, appearing by Amanda Hiller, Esq. (Eric Gee, Esq., of counsel), filed a letter in response on November 3, 2021. Petitioner did not file a response. The six-month period for the issuance of this decision began on November 8, 2021.

On its own motion, after reviewing the small claims determination of the Presiding Officer, petitioner's exception, the relevant records of the Division of Tax Appeals, and the Division of Taxation's response to the notice of intent to dismiss exception, the Tribunal renders the following decision.

***ISSUE***

Whether the Tribunal lacks jurisdiction to review the small claims determination issued by the Presiding Officer.

***FINDINGS OF FACT***

We find the following facts.

1. Petitioner filed a petition with the Division of Tax Appeals on August 3, 2018. The petition indicates petitioner’s election to proceed in the small claims unit.

2. A virtual small claims hearing was held before a Presiding Officer on May 27, 2021, and a determination was issued on August 26, 2021. The determination dismissed the petition as untimely filed.

3. On September 24, 2021, petitioner filed an exception to the small claims determination with the Tribunal.

4. The exception did not allege misconduct on the part of the Presiding Officer.

5. On October 4, 2021, the Tribunal issued a notice of intent to dismiss exception on the ground that it lacks jurisdiction to review the small claims determination issued by the Presiding Officer.

***OPINION***

Tax Law § 2012 permits a petitioner to elect to proceed in the small claims unit in the Division of Tax Appeals.

Tax Law § 2012 further provides, in pertinent part, that:

“[t]he final determination of the presiding officer in the small claims unit shall be conclusive upon all parties and shall not be subject to review by any other unit in the division of tax appeals, by the tax appeals tribunal or by any court of the state.”

As provided above, this Tribunal lacks authority to consider exceptions to small claims determinations. A narrow exception to this rule is that the Tribunal may order a rehearing of the small claims matter “upon proof or allegation of misconduct by the presiding officer” (*id.*). There

is no such proof or allegation here. Therefore, as petitioner elected to proceed in the small claims unit, the Presiding Officer's determination was conclusive and may not be reviewed by this Tribunal.

Accordingly, it is ORDERED, ADJUDGED and DECREED that the exception of Maboob Corporation is dismissed.

DATED: Albany, New York  
May 5, 2022

/s/ Anthony Giardina  
Anthony Giardina  
President

/s/ Dierdre K.Scozzafava  
Dierdre K. Scozzafava  
Commissioner

/s/ Cynthia M. Monaco  
Cynthia M. Monaco  
Commissioner