

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
190 - 34 JAMAICA FOOD CORP. : **DETERMINATION**
for Revision of a Determination or for Refund of : DTA NO. 826046
Sales and Use Taxes under Articles 28 and 29 of :
the Tax Law for the Period June 1, 2009 :
through February 29, 2012. :
_____ :

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 BCMS conciliation order.

In this case, it appears that the BCMS conciliation order under protest, CMS No. 254368, was issued to petitioner on March 29, 2013. However, the petition was not filed with the Division of Tax Appeals until January 8, 2014, or two hundred and eighty five (285) days later.

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 May 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
September 17, 2014

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