

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
CMC FOOD, INC. : **DETERMINATION**
for Revision of a Determination or for Refund of : DTA NO. 826094
Sales and Use Taxes under Articles 28 and 29 of :
the Tax Law for the Period December 1, 2006 :
through May 31, 2010. :
_____ :

Pursuant to § 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.

In this case, the conciliation order, CMS No. 256572, was issued to petitioner on March 29, 2013. However, the petition in this matter was not filed with the Division of Tax Appeals until February 5, 2014, or three hundred and thirteen (313) 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 September 12, 2014 informing the parties of the basis for the dismissal.

No response having been received from 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
January 22, 2015

/s/ Daniel J. Ranalli
Supervising Administrative Law Judge