

STATE OF NEW YORK  
DIVISION OF TAX APPEALS

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In the Matter of the Petition :  
of :  
**KUN FUK CHENG** : **DETERMINATION**  
for Redetermination of a Deficiency or for Refund : DTA NO. 826602  
of Sales and Use Taxes under Articles 28 and 29 of :  
the Tax Law for the Period December 1, 2000 :  
through May 31, 2006. :

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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. 262345, was issued to petitioner on June 27, 2014. However, the petition in this matter was not filed with the Division of Tax Appeals until October 30, 2014, or one-hundred twenty five (125) 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 December 8, 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  
March 12, 2015

/s/ Daniel J. Ranalli  
Supervising Administrative Law Judge