

STATE OF NEW YORK

TAX APPEALS TRIBUNAL

	:	
In the Matter of the Petition	:	
	:	
of	:	
	:	
THE DUMPLING COVE, LLC	:	ORDER AND
	:	REMITTANCE
for Revision of a Determination or for Refund of Sales	:	DTA NO. 829759
and Use Taxes under Articles 28 and 29 of the Tax Law	:	
for the Periods June 1, 2014 through August 31, 2017.	:	
	:	

Petitioner, The Dumpling Cove, LLC, filed a petition with Division of Tax Appeals, which was dismissed with prejudice by the Supervising Administrative Law Judge on September 3, 2020 for lack of subject matter jurisdiction. Petitioner proceeded to file an exception to the determination of the Administrative Law Judge, which was denied by the Tax Appeals Tribunal by decision dated August 4, 2021, affirming the Supervising Administrative Law Judge's determination. Petitioner appeared by Kereith Mair, its principal. The Division of Taxation appeared by Amanda Hiller, Esq. (Karry L. Culihan, Esq., of counsel).

Petitioner then filed a petition for judicial review of the Tax Appeals Tribunal's (Tribunal) decision pursuant to Civil Practice Law and Rules Article 78 with the New York State Supreme Court, Appellate Division, Third Department. On August 22, 2024, the court in *Matter of Dumpling Cove, LLC v Commissioner of Taxation & Fin.* (230 AD3d 927 [3d Dept 2024], *lv denied* 44 NY3d 902 [2025]) annulled the Tribunal's decision which dismissed petitioner's exception due to a lack of subject matter jurisdiction; granted petitioner's petition; and remitted the matter to the Tribunal for further proceedings consistent with its decision. The Division of Taxation (Division) moved for leave to appeal and/or reargue this matter to the Court

of Appeals of New York. On September 16, 2025, the Court of Appeals of New York denied the Division's motion for leave to appeal.

Accordingly, it is ORDERED that this matter is remitted to the Supervising Administrative Law Judge for further proceedings consistent with the New York State Supreme Court, Appellate Division, Third Department's decision referenced herein.

DATED: Albany, New York
December 18, 2025

/s/ Jonathan S. Kaiman
Jonathan S. Kaiman
President

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

/s/ Kevin A. Cahill
Kevin A. Cahill
Commissioner