

**NEW YORK CITY TAX APPEALS TRIBUNAL  
ADMINISTRATIVE LAW JUDGE DIVISION**

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**In the Matter of the Petition**

**of**

**SADP CORP.**

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**DISMISSAL DETERMINATION**

**TAT (H) 07-5 (GC)**

Gombinski, C.A.L.J.:

Petitioner, SADP Corp., filed a Petition dated February 17, 2007, that requested the redetermination of a deficiency of New York City ("City") General Corporation Tax (GCT) set forth in a Notice of Determination dated January 17, 2007 ("Notice"). The Notice asserted a principal tax deficiency of \$2,933.03, interest of \$1,233.89 and penalty of \$1,053.05; for a total due of \$5,219.97.

The Petition, which was signed by Petitioner's President, Leoncio Servines, indicated that no request had been made for a Conciliation Conference before the City Department of Finance's Bureau of Conciliation. However, a fully executed Bureau of Conciliation Request for Conciliation Conference was attached to the Petition. The Request for Conciliation Conference was not dated, but also was signed by Mr. Servines. The Request for Conciliation covered the identical matter protested in the Petition as evidenced by its reference to the amount of Petitioner's principal GCT liability set forth in the Notice.

A taxpayer who disagrees with a statutory notice issued by the Department of Finance has the option, within 90 days after the issuance of a notice of determination or within 2 years after the issuance of a notice of disallowance of either: (1) filing a request for a conciliation conference with the Department of Finance's Conciliation Bureau, or (2) filing a Petition with the Tax Appeals Tribunal. New York City Charter Section 170(a). If the taxpayer requests a conciliation conference, then the taxpayer may, within 90 days from the mailing of the conciliation decision or the

date of the Commissioner of Finance's confirmation of the discontinuance of the conciliation proceeding, file a petition for hearing with the Tax Appeals Tribunal. Id. Therefore, a taxpayer cannot concurrently request a conciliation conference before the Department's Bureau of Conciliation and a hearing before the Tax Appeals Tribunal.

Petitioner's dual filing of a Request for Conciliation Conference and Petition for Hearing indicates a desire to utilize all available rights of appeal, where necessary. Since a hearing before the Tax Appeals Tribunal can commence following the conclusion of a conciliation proceeding, but a conciliation proceeding cannot occur after the conclusion of a proceeding before the Administrative Law Judge Division of the Tax Appeals Tribunal, the only way to grant Petitioner all of its available rights of appeal is to grant precedence to the Request For Conciliation Conference. To that end, the Administrative Law Judge Division of this Tribunal has held that a timely conciliation request confers jurisdiction on the Conciliation Bureau, thereby precluding the Tax Appeals Tribunal from having jurisdiction over the matter, even if the Petition for Hearing would have conferred jurisdiction on the Tax Appeals Tribunal but for such timely filed Request for Conciliation Conference. *See, Matter of F. Kashanian Rug Corp.*, TAT(H) 97-4(CR) (NYC Tax Appeals Tribunal, ALJ Division, August 21, 1997); *In the Matter of Miriam Ramos*, TAT(H) 94-58(MV) (NYC Tax Appeals Tribunal, ALJ Division, June 30, 1995).

Since Petitioner indicated that it desires a conciliation proceeding, and any conciliation proceeding must be concluded before a proceeding before the Tax Appeals Tribunal can commence, the original Request for Conciliation Conference was forwarded to the Department of Finance's Conciliation Bureau for its review and a Notice of Intent to Dismiss Petition, dated February 28, 2007, was issued to Petitioner indicating that unless a written objection was received within 30 days from the date of such notice, the Petition would be dismissed for lack of jurisdiction. As more than 30 days has passed since the date of the Notice to Dismiss Petition and no objection to such dismissal has been received, the Petition is hereby dismissed for lack of jurisdiction as having been prematurely filed.

**Petitioner is advised that it may file a new petition for hearing protesting any conciliation decision or confirmation of the discontinuance of the conciliation proceeding with respect to the substantive liability at issue. However, to obtain a hearing before this forum, Petitioner must file such new petition with the Tax**

Appeals Tribunal within 90 days from the mailing of the subsequent conciliation decision or the date of the Commissioner of Finance's confirmation of the discontinuance of the conciliation proceeding.

IT IS SO ORDERED.

Date: May 22, 2007

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STEVEN J. GOMBINSKI  
Chief Administrative Law Judge