

New York City Tax Appeals Tribunal

-----X	:	
	:	
In the Matter of	:	
	:	
INDIRA PATEL & BHARGAVI PATEL	:	ORDER OF DISMISSAL
	:	
	:	
Petitioners.	:	
	:	
-----X		

The Appeals Division of the New York City Tax Appeals Tribunal (Appeals Division) received an Exception dated June 4, 2015 in the above-referenced matter filed by Indira Patel & Bhargavi Patel (Petitioners). The Exception sought to vacate a Determination of the Chief Administrative Law Judge (CALJ) dated May 8, 2015, which dismissed this matter at the Administrative Law Judge Division of the New York City Tax Appeals Tribunal (Administrative Law Judge Division) for lack of jurisdiction.

On October 5, 2018 the Appeals Division issued a Notice of Intent to Dismiss Exception for Lack of Jurisdiction (Notice). Section 168.a of the New York City Charter (Charter) provides that:

“The tribunal shall have jurisdiction to hear and determine cases initiated by the filing of petitions protesting notices issued by the commissioner of finance, which give a person the right to a hearing, including but not limited to any notice of determination of tax due, of a tax deficiency, . . . which notices relate to nonproperty taxes, excise taxes and annual vault charges imposed by the city, except those taxes and charges administered by the State of New York on behalf of the City of New York.”

Section 170.a of the Charter provides that:

“To commence a proceeding, such a taxpayer must, within

ninety days after being issued the notice at issue by the commissioner of finance or . . . within ninety days from the mailing of the conciliation decision or the date of the commissioner's confirmation of the discontinuance of the conciliation proceeding, both (1) serve a petition upon the commissioner of finance and (2) file the petition with the tribunal. . . . The tribunal shall not extend the time limitations for commencing a proceeding for any petitioner failing to comply with such time limitations.”

Section 11-2107 of the New York City Administrative Code provides that a determination under the New York City Real Property Transfer Tax “shall finally and irrevocably fix the tax” unless a petition is served upon the Commissioner of Finance and filed with the New York City Tax Appeals Tribunal within ninety days of the issuance of the Notice of Determination, or, if a conciliation conference has been requested, “within ninety days from the mailing of a conciliation decision or the date of the [Commissioner of Finance’s] confirmation of the discontinuance of the conciliation proceeding. . . .”

The Notice stated that the “Notice of Determination in this matter is dated July 24, 2013. The New York City Department of Finance’s Conciliation Bureau issued a Conciliation Determination dated June 5, 2014 discontinuing the conciliation proceeding for this matter. . . . The undated Petition was received by the Administrative Law Judge Division on October 2, 2014, which is more than one hundred days from the date of the Conciliation Determination, June 5, 2014.” The Notice also stated that “[b]ecause the Tribunal does not have jurisdiction to review a Notice of Determination or a Conciliation Determination where a petition was not filed with the Tribunal within the above time limits, the Appeals Division intends to dismiss the Exception for lack of jurisdiction.”

The Notice provided that a written response seeking to stay dismissal of the Exception, had to be filed with the Appeals Division by November 30, 2018 with a copy

to the New York City Law Department. No response seeking to stay dismissal of the Exception has been received by the Appeals Division.

ACCORDINGLY, IT IS ORDERED that the Exception is dismissed with prejudice for lack of jurisdiction.

SO ORDERED.

Dated: May 21, 2019  
New York, New York

\_\_\_\_\_/s/\_\_\_\_\_  
Ellen E. Hoffman  
President and Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
Robert J. Firestone  
Commissioner