

New York City Tax Appeals Tribunal

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In the Matter of
JAMIE HUANG

Petitioner.

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DECISION

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TAT (E) 18-19 (RP)
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The Appeals Division of the New York City Tax Appeals Tribunal (Tribunal) received an Exception filed by Jamie Huang (Petitioner), dated September 1, 2021. The Exception appeals the Determination of the Chief Administrative Law Judge (CALJ) dated August 26, 2021, which dismissed this matter before the Administrative Law Judge Division (ALJ Division) on the grounds that “the Petition for hearing was prematurely filed.” The CALJ more fully explained the grounds for dismissal in a Notice of Intent to Dismiss, dated October 11, 2018:

“You [Petitioner] also submitted a Request for Conciliation Conference dated July 17, 2018, before the New York City Department of Finance’s Conciliation Bureau. . . Following the issuance of a statutory notice, a taxpayer, therefore, cannot concurrently request a Conciliation Conference and file a Petition for a Hearing. In such event, the Request for Conciliation Conference, if timely filed, shall proceed. Consequently, the Petition for Hearing will be dismissed for lack of jurisdiction. . .”

We could not locate any documents in the CALJ’s file to indicate that Petitioner filed a Request for Conciliation Conference, beyond a partially completed, unsigned and undated “Request for Conciliation Conference” form, which left entirely blank the second half of the form inclusive of a description of the Notice, the type of tax and the grounds for appeal, and which was not stamped as having been submitted for filing. The Petition, filed with the ALJ Division on August 22, 2018,¹ leaves blank the section that asks whether a Conciliation Conference was requested and, if so, the date a conciliation decision was issued.

¹ The Petition, in response to a Notice of Determination dated June 29, 2018, was timely filed.

The Determination, referencing the Notice of Intent to Dismiss issued on October 11, 2018, stated that:

“The parties were informed that unless written objection was received by 12/11/2018, the matter would be dismissed for lack or [sic] jurisdiction. The time provided for objections to the proposed dismissal has passed *and no objection to such proposed dismissal has been received.*” (Emphasis added.)

The last quoted sentence, however, appears to be contradicted by the CALJ’s file, which contains an email from Petitioner, dated October 22, 2018, just eleven days after the date of the Notice of Intent to Dismiss, well within the thirty-day period granted by the Notice of Intent to Dismiss, transmitted with, and appended to, a copy of the Notice of Intent to Dismiss, that states the following:

To whom it may concern,

I would like to request petition with NYC tax appeals tribunal not the conciliation conference [sic]

Jamie Huang
Thanks

While Petitioner’s response does not definitively state whether a petition for a Conciliation Conference was simultaneously filed with the Petition to the ALJ Division, it does at least raise an ambiguity as to whether such a petition was filed,² prompting further inquiry with the Conciliation Bureau as to the existence of such a petition.

We inquired with Duncan Riley, Director, Conciliation Bureau, as to whether Petitioner Jamie Huang filed a petition for a Conciliation Conference in connection with the matter before us. Mr. Riley responded:

“According to our records, Mr. Huang did not file a Request for Conciliation Conference for [the present matter] . . .”

Since Petitioner did not, in fact, file a petition with the Conciliation Bureau, the Determination, therefore, is in error, and the Tribunal has jurisdiction to hear this matter on the merits.

² Notably, Petitioner is appearing here pro se.

The Exception is granted, and the matter is remanded to the ALJ Division for further proceedings consistent with this Decision.

Dated: January 25, 2022
New York, New York

_____/s/_____
Frances J. Henn
President and Commissioner

_____/s/_____
Robert J. Firestone
Commissioner

_____/s/_____
Neil Schaier
Commissioner