

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D54368
T/hu

_____AD3d_____

Argued - December 15, 2017

WILLIAM F. MASTRO, J.P.
JEFFREY A. COHEN
HECTOR D. LASALLE
VALERIE BRATHWAITE NELSON, JJ.

2016-00005

DECISION & ORDER

In the Matter of 76 South Central Associates, LLC,
respondent, v Department of Assessment, et al.,
appellants.

(Index No. 403060/15)

Jared Kasschau, Acting County Attorney, Mineola, NY (Christi Marie Kunzig and Robert F. Van der Waag of counsel), for appellants.

The Gottlieb Law Firm, PLLC, Syosset, NY (Jonathan D. Gottlieb of counsel), for respondent.

In a tax certiorari proceeding pursuant to Real Property Tax Law article 7, the Department of Assessment, the Assessment Review Commission, and the County of Nassau appeal from an order of the Supreme Court, Nassau County (Marano, J.), dated November 30, 2015, which granted the petitioner's motion pursuant to CPLR 306-b to extend the time to complete service of process.

ORDERED that the order is affirmed, with costs.

The Supreme Court providently exercised its discretion in granting, in the interest of justice, the petitioner's motion pursuant to CPLR 306-b to extend the time to complete service of process on the appellants (*see Leader v Maroney, Ponzini & Spencer*, 97 NY2d 95, 105-106; *Rosenzweig v 600 N. St., LLC*, 35 AD3d 705, 706). The petitioner's time to effect service of process was properly extended since the verified petition demonstrated the merits of the proceeding, the

January 10, 2018


Page 1.

MATTER OF 76 SOUTH CENTRAL ASSOCIATES, LLC v DEPARTMENT
OF ASSESSMENT

petition was timely filed, the statute of limitations had expired by the time the petitioner moved to extend its time to complete service of process, and there was no demonstrable prejudice to the appellants which would militate against granting the extension of time to serve them (*see* CPLR 105[u]; *Leader v Maroney, Ponzini & Spencer*, 97 NY2d at 105-106; *Gabbar v Flatlands Commons, LLC*, 150 AD3d 1084, 1084-1085; *Abu-Aqleyn v El-Jamal*, 44 AD3d 884, 885; *Beague v New York City Tr. Auth*, 282 AD2d 416; *Busler v Corbett*, 259 AD2d 13; *cf. Bahadur v New York State Dept. of Correctional Servs.*, 88 AD3d 629, 630).

MASTRO, J.P., COHEN, LASALLE and BRATHWAITE NELSON, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court