

Summary of SC93331, AAA Laundry & Linen Supply Co. v. Director of Revenue

On review from the administrative hearing commission, Commissioner Sreenivasa Rao

Dandamudi

Argued and submitted December 4, 2013; opinion issued March 11, 2014

Attorneys: The director was represented by Deputy Solicitor General Jeremiah J. Morgan of the attorney general's office in Jefferson City, (573) 751-3321; and AAA Laundry was represented by Matthew W. Geary, Thomas E. Roszak and John F. Wilcox Jr. of Dysart Taylor Cotter McMonigle & Montemore PC in Kansas City, (816) 931-2700.

The Superior Linen Supply Company and The Medical Laundry Service LLC, which submitted a brief as friends of the Court, were represented by Anthony W. Bonuchi of Polsinelli PC in Kansas City, (816) 421-3353.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: The director of revenue seeks review of an administrative hearing commission decision that a company's purchases of cleaning supplies and water treatment chemicals from out-of-state vendors are exempt from Missouri's use tax. In a unanimous decision written by Judge Paul C. Wilson, the Supreme Court of Missouri reverses the commission's decision and remands (sends back) the case. This Court's prior holdings compel the conclusion that the company is not entitled to the use tax exemptions, and the company fails to present a sufficiently compelling legal or factual basis to distinguish the prior holdings and to justify the Court reaching a contrary conclusion. The company's laundry services are not "manufacturing" or "processing," and its wastewater treatment chemicals cannot be "equipment" or "machinery."

Facts: AAA Laundry & Linen Supply Co. launders a rotating stock of uniforms it owns for its customers to whom it rents the uniforms. When it purchases various cleaning supplies for that laundering process from out-of-state vendors, it pays neither sales nor use taxes. To the extent it purchases chemicals to treat the significant amount of wastewater its laundering process generates before releasing that wastewater into the city sewer system, it also pays no sales or use taxes. Following an audit, the director of revenue determined that AAA Laundry owes approximately \$40,000 in use taxes, plus interest and additions, for the cleaning supplies and water treatment chemicals purchased from out-of-state vendors. AAA Laundry sought review of these assessments before the administrative hearing commission, which concluded that: the company's purchases of cleaning supplies are exempt from use taxes under section 144.054.2, RSMo Supp. 2007, relating to chemicals used in "processing" a product; and its purchases of water treatment chemicals are exempt under section 144.030.2(15), RSMo Supp. 2007, relating to "machinery" and "equipment" used solely for water pollution abatement. The director seeks this Court's review of the commission's decision.

REVERSED AND REMANDED.

Court en banc holds: The commission erred in concluding that the statutory use tax exemptions for “manufacturing” or “processing” and for “equipment” or “machinery” because this Court’s prior holdings compel a contrary conclusion. When construing tax exemptions, this Court gives effect to the legislature’s intent using the plain and ordinary meaning of the words in the statute. Exemptions are construed strictly against the taxpayer, who bears the burden of proving clearly and unequivocally that it is entitled to the exemption. AAA Laundry fails to provide such proof.

(1) This Court’s prior holdings compel the conclusion that AAA Laundry is not entitled to the use tax exemption in section 144.030.2(15). In 1989, this Court held – in *Unitog Rental Services Inc. v. Director of Revenue* – that commercial uniform-laundry services substantially similar to what AAA Laundry provides are not “manufacturing” because laundering does not produce a “new and different article” with a dissimilar condition or distinctive new use. Rather, laundering soiled uniforms is merely the “repair and restoration of the original article.” As *Unitog* and other past cases have held, section 144.054.2’s use of the terms “manufacturing” and “processing” are interchangeable – the terms have concentric, if not identical, meanings. The Court has rejected taxpayer arguments that “processing” should be extended to cover other activities that plainly were not “manufacturing.” AAA Laundry does not ask this Court to overrule *Unitog*, nor does it present a sufficiently compelling legal or factual basis to distinguish that case and justify the Court reaching a contrary conclusion here.

(2) Similarly, this Court’s prior holdings compel the conclusion that AAA Laundry is not entitled to the use tax exemption in section 144.030.2(15). In 1996, this Court held in *Walsworth Publishing Co. Inc. v. Director of Revenue* that “equipment,” as used in the statute, must have a degree of permanence to the business and that items consumed in one processing are not “fixed” in any sense. Under this rationale, the water treatment chemicals consumed during the treatment of AAA Laundry’s wastewater are not “equipment” because they are consumed in the treatment process and are not fixed, with any degree of permanence. For the same reason, the treatment chemicals also cannot meet the fixed asset definition of “machinery” as used in the statute. Although the exemption on which AAA Laundry relies is not the same as the one at issue in *Walsworth*, the exemptions use the very same language. As such, *Walsworth* draws the line for “equipment” and “machinery” between fixed assets and consumables, and AAA Laundry provides no basis for abandoning such a clear and easily applied test. AAA Laundry does not ask this Court to overrule *Walsworth*, nor does it present a sufficiently compelling legal or factual basis to distinguish that case and justify the Court reaching a contrary conclusion here.