SUPREME COURT OF MISSOURI

Fred Weber, Inc. v. Director of Revenue

452 S.W.3d 628 (Mo. banc 2015) · No. SC94109 · Decided January 13, 2015

SUMMARY

The Missouri Supreme Court held that the construction and resurfacing of roads and parking lots did not constitute manufacturing, processing, compounding, or producing under Missouri Revised Statutes section 144.054.2. Because the paving companies' activities did not satisfy the statutory requirements for the sales tax exemption, the Court reversed the Administrative Hearing Commission's decision granting Fred Weber, Inc. a refund.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Zel M. Fischer
JURISDICTION	Missouri
DECIDED	January 13, 2015
DOCKET	SC94109
DISPOSITION	reversed
PROCEDURAL POSTURE	The Director of Revenue petitioned the Supreme Court of Missouri for review of an Administrative Hearing Commission decision reversing the denial of Fred Weber, Inc.'s sales tax refund claim.
STANDARD OF REVIEW	The court reviewed the AHC's interpretation of a revenue statute de novo. The AHC's decision would be upheld if authorized by law, supported by substantial and competent evidence on the whole record, compliant with mandatory procedural safeguards, and not clearly contrary to the General Assembly's reasonable expectations.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Missouri; precedential.
PARTIES	Director of Revenue v. Fred Weber, Inc.

TOPICS

sales and use tax · tax deductions · statutory interpretation · construction law · tax court procedure

PRACTICE AREAS

state and local taxation | sales and use tax | administrative law | construction law | statutory interpretation

QUESTIONS PRESENTED

1. Whether the paving companies' construction and resurfacing of roads and parking lots constituted manufacturing, processing, compounding, or producing a product under section 144.054.2.
2. Whether Weber established that its sales of rock base and asphalt qualified for the section 144.054.2 sales and use tax exemption.

HOLDINGS

1. The paving companies' construction and resurfacing activities were not manufacturing, processing, compounding, or producing within the meaning of section 144.054.2 because those terms refer to large-scale industrial activities, not ordinary construction activities.
2. Weber did not qualify for the exemption because it failed to prove the required statutory criteria, including that the materials were used or consumed during a qualifying manufacturing, processing, compounding, or producing activity.

KEY QUOTATIONS

> *"The paving companies were not engaged in "what can best be described as large-scale industrial activities.""* (at 635)

> *"The decision of the AHC is reversed."* (at 637)

FACTUAL BACKGROUND

Fred Weber, Inc. sold rock base and hot-mix asphalt to paving companies for use in constructing and resurfacing roads and parking lots. The paving companies placed the rock base, distributed the asphalt with a paving machine, and compacted it with rollers until it cooled in place. Weber sought a $139,654.62 sales tax refund under section 144.054.2, asserting that the paving companies' activities constituted exempt manufacturing, processing, compounding, or producing.

PROCEDURAL HISTORY

Fred Weber sought a sales tax refund under section 144.054.2 for sales of rock base and asphalt to paving companies. The Director denied the refund, but the Administrative Hearing Commission reversed and ruled in Weber's favor. The Director petitioned the Supreme Court of Missouri for review, and the court reversed the AHC decision.

DISPOSITION

reversed

CASES CITED

- AAA Laundry & Linen Supply Co. v. Director of Revenue, 425 S.W.3d 126, 128 (Mo. banc 2014)
- Parktown Imports, Inc. v. Audi of America, Inc., 278 S.W.3d 670, 672-673 (Mo. banc 2009)
- Aquila Foreign Qualifications Corp. v. Director of Revenue, 362 S.W.3d 1, 3, 5 (Mo. banc 2012)
- Union Electric Co. v. Director of Revenue, 425 S.W.3d 118, 124 (Mo. banc 2014)
- Fenix Construction Co. v. Director of Revenue, No. SC93915, 2014 WL 6679523 (Mo. banc 2014)
- Ben Hur Steel Worx, LLC v. Director of Revenue, No. SC94209 (Mo. banc 2015)
- Branson Properties USA, L.P. v. Director of Revenue, 110 S.W.3d 824, 826 (Mo. banc 2003)

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