SUPREME JUDICIAL COURT OF MAINE

Flippo v. L.L. Bean, Inc.

898 A.2d 942 (Me. 2006) · Decided May 26, 2006

SUMMARY

The Maine Supreme Judicial Court held that L.L. Bean properly included the value of credit and inducement coupons in the taxable sale price of merchandise. Because L.L. Bean and MBNA intended the royalty payments to reimburse L.L. Bean for accepting the coupons, the coupons were not discounts under Maine's sales tax statute. The court affirmed partial summary judgment for L.L. Bean, vacated the remaining judgment, and remanded for entry of judgment in L.L. Bean's favor on all claims.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Alexander, J.; Alexander; Calkins; Clifford; Dana; Levy; Silver
JURISDICTION	Maine
DECIDED	May 26, 2006
DISPOSITION	other
PROCEDURAL POSTURE	Class action reported from the Superior Court pursuant to M.R. App. P. 24(c) following partial summary judgments for the plaintiff class and L.L. Bean.
STANDARD OF REVIEW	Summary judgment is reviewed for whether the record demonstrates no genuine issue of material fact and whether the prevailing party is entitled to judgment as a matter of law; statutory interpretation is reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Judicial Court of Maine.
PARTIES	R.F. Flippo, representative of a class of plaintiffs v. L.L. Bean, Inc.

TOPICS

sales and use tax · tax · statutory interpretation · contracts · consumer protection

PRACTICE AREAS

sales and use tax | statutory interpretation | contracts | consumer protection

QUESTIONS PRESENTED

1. Whether the value of credit coupons and inducement coupons accepted by L.L. Bean constituted a discount excluded from the taxable sale price under Maine's sales tax statute.
2. Whether determining the taxable sale price required examining whether L.L. Bean was actually fully reimbursed by MBNA in each tax year.
3. Whether L.L. Bean was entitled to summary judgment on the class's sales-tax, implied-contract, and Unfair Trade Practices Act claims.

HOLDINGS

1. The value of the credit and inducement coupons was part of the taxable sale price, not an excluded discount, because L.L. Bean and MBNA intended that MBNA's royalty payments would reimburse L.L. Bean for the value of the coupons.
2. The tax liability is determined at the time of sale based on the retailer's expectation of third-party reimbursement; actual failure to receive expected reimbursement does not retroactively reduce the taxable sale price or create a purchaser refund.
3. L.L. Bean was entitled to summary judgment for all years on all of the class's claims because it properly charged sales tax on the value of the coupons.

KEY QUOTATIONS

> *"Rather, if the retailer expects reimbursement, and thus does not foresee a reduction in profits, there is no discount regardless of the particular form that the reimbursement will take."* (945)

> *"Because the tax is due, and must be calculated at the time of sale, the expectation of the retailer that there will be third-party reimbursement for part of the sale price must also be judged at the time of the sale."* (946)

> *"The value of coupons honored by L.L. Bean was part of the sale price, not a discount, because it was always the intention of L.L. Bean and MBNA that MBNA's royalty payments would reimburse L.L. Bean for the value of the coupons."* (946)

FACTUAL BACKGROUND

L.L. Bean and MBNA operated a co-branded credit-card program under which cardholders received coupons usable toward L.L. Bean purchases, and L.L. Bean also issued inducement coupons to encourage customers to apply for cards. L.L. Bean charged Maine sales tax on the full purchase price before deducting the coupons. Under its agreements with MBNA, L.L. Bean received royalties that the uncontroverted evidence showed were intended to reimburse it for expenses associated with providing cardholder benefits, including honoring the coupons.

PROCEDURAL HISTORY

Flippo filed a class action alleging that L.L. Bean improperly collected Maine sales tax on the value of coupons used toward merchandise purchases. The Superior Court certified the class, allowed the State Tax Assessor to intervene, granted partial summary judgment to the class on an implied-contract claim for certain years, and granted summary judgment to L.L. Bean for other years. The court reported the case to the Supreme Judicial Court of Maine, which affirmed the partial judgment for L.L. Bean, vacated the remaining judgment, and remanded for entry of judgment for L.L. Bean on all counts for all remaining years.

DISPOSITION

other

REMAND INSTRUCTIONS

Remanded to the Superior Court for entry of judgment in favor of L.L. Bean on all counts for all remaining years.

CASES CITED

- Flik International Corp. v. State Tax Assessor, 2002 ME 176, 812 A.2d 974 (Me. 2002)
- Green v. State Tax Assessor, 562 A.2d 1217 (Me. 1989)
- Rogers v. Jackson, 2002 ME 140, 804 A.2d 379 (Me. 2002)
- Director of Revenue v. Loethen Amusement, Inc., 753 S.W.2d 334 (Mo. Ct. App. 1988)