SUPREME COURT OF SOUTH DAKOTA

Pourier v. South Dakota Department of Revenue

674 N.W.2d 314, 2004 SD 3 (2004) · No. No. 22221 · Decided January 7, 2004

SUMMARY

On rehearing, the South Dakota Supreme Court held that a fifteen-month limitations period under SDCL 10-47B-141 governed claims for refunds of motor fuel taxes unlawfully collected from Native Americans on the Oglala Sioux Reservation. Claims predating December 17, 1997, were untimely, while eligible tribal consumers could seek refunds for taxes paid during the period covered by timely claims. The court otherwise left its prior decision intact and remanded for proceedings concerning refunds attributable to the company's own fuel use and qualifying consumers.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Konenkamp, Justice (on reassignment); Amundson, Retired Justice; Gilbertson, Chief Justice; Konenkamp, Justice; Meierhenry, Justice; Rusch, Circuit Judge; Sabers, Justice; Zinter, Justice
JURISDICTION	South Dakota
DECIDED	January 7, 2004
DOCKET	No. 22221
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Rehearing of the South Dakota Supreme Court's prior decision concerning refunds of illegally collected motor fuel taxes paid on the Oglala Sioux Reservation, limited to the applicable limitations period for refund applications.
STANDARD OF REVIEW	Statutory interpretation and review of the legal limitations period applicable to undisputedly untimely refund claims; constitutional adequacy of the refund procedure reviewed as a legal question.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Loren Pourier, d/b/a Muddy Creek Oil and Gas, Inc., Muddy Creek Oil and Gas, Inc. v. South Dakota Department of Revenue

TOPICS

tax refunds · tax statute of limitations · tax · indian affairs · appellate procedure

PRACTICE AREAS

tax litigation · state and local taxation · Native American law · administrative law

QUESTIONS PRESENTED

1. What limitations period governs claims for refunds of motor fuel and special fuel taxes illegally collected from Native American taxpayers on an Indian reservation?
2. Whether SDCL 10-47B-141's fifteen-month limitations period is constitutionally adequate and applicable despite the prior determination that the tax was illegally imposed.
3. Whether tribal consumers who bore the legal and economic incidence of the tax may seek refunds for timely periods under SDCL 10-47B-131.2.

HOLDINGS

1. SDCL 10-47B-141's fifteen-month limitations period specifically governs claims for refunds of motor fuel and special fuel taxes, and claims predating December 17, 1997, are untimely and barred.
2. The fifteen-month limitations period is constitutionally adequate because South Dakota provided a clear and certain refund remedy within a reasonable time.
3. Enrolled members of the Oglala Sioux Tribe who paid the invalidly collected motor fuel tax may timely seek refunds for purchases made during the same period covered by Muddy Creek's timely claims, provided they apply and prove entitlement.

KEY QUOTATIONS

> *“We now hold that the limitations period applicable in this case is fifteen months under SDCL 10-47B-141 and that claims for times predating December 17, 1997 are untimely.”* (674 N.W.2d at 315)

> *“Muddy Creek did not comply with those requirements and thus it cannot revive its untimely claims; they are foreclosed and "forever barred from refund eligibility.""* (674 N.W.2d at 317)

> *“So long as they provide a "clear and certain remedy," indeed, "the States are afforded great flexibility in satisfying the requirements of due process in the field of taxation.""* (674 N.W.2d at 317)

FACTUAL BACKGROUND

Muddy Creek Oil and Gas, Inc., operated a gasoline station on the Oglala Sioux Reservation, and Loren Pourier, an enrolled member of the Oglala Sioux Tribe, was its sole owner. Muddy Creek paid South Dakota motor fuel and special fuel taxes and filed successive refund claims and objections, all of which were denied. The administrative hearing examiner found that claims concerning periods before December 17, 1997, were untimely, and Muddy Creek did not dispute the factual timeliness findings.

PROCEDURAL HISTORY

In Pourier I, the court held that the motor fuel taxes were illegally collected because the Hayden-Cartwright Act did not expressly authorize taxation of Native Americans on Indian reservations, and it remanded for refund proceedings. On rehearing granted at the State's request, the court reconsidered only the applicable limitations period, vacated and replaced Issue 4 of Pourier I, and otherwise left the prior decision intact.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for a hearing at which Pourier and Muddy Creek may prove the amount of motor fuel tax they paid as consumers for personal use. Timely enrolled Oglala Sioux tribal consumers may apply for refunds and prove their entitlement for purchases during the period covered by Muddy Creek's timely claims.

CASES CITED

- Pourier v. South Dakota Department of Revenue, 2003 SD 21, 658 N.W.2d 395
- Martinmaas v. Engelmann, 2000 SD 85, 612 N.W.2d 600, 611
- Moss v. Guttormson, 1996 SD 76, 551 N.W.2d 14, 17
- Hough v. Perkins County, 72 S.D. 236, 32 N.W.2d 632, 633 (1948)
- Cornelius (Lynch, Intervener) v. Ferguson, 23 S.D. 187, 121 N.W. 91, 93 (1909)
- Pederson v. Stanley County, 34 S.D. 560, 149 N.W. 422 (1914)
- McKesson Corp. v. Division of Alcoholic Beverages and Tobacco, Department of Business Regulation of Florida, 496 U.S. 18 (1990)
- National Private Truck Council, Inc. v. Oklahoma Tax Commission, 515 U.S. 582, 587 (1995)