SUPREME COURT OF ARKANSAS

Richard A. Weiss, Director DF&A and Timothy Leathers, Commissioner of Revenue v. American Honda Finance Corporation, 360 Ark. 208

200 S.W.3d 381 (2004) · No. No. 04-617 · Decided December 16, 2004

SUMMARY

The Supreme Court of Arkansas held that American Honda Finance Corporation was not a taxpayer entitled to a bad-debt deduction or refund under Arkansas Code § 26-52-309. The court concluded that the motor-vehicle gross receipts tax was payable by the consumer, and that Honda's payment of the tax on the consumer's behalf did not make Honda liable to remit the tax. The court also held that sovereign immunity did not bar Honda's refund action and reversed the circuit court's partial summary judgment.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Hannah; Brown; Thornton
JURISDICTION	Arkansas
DECIDED	December 16, 2004
DOCKET	No. 04-617
DISPOSITION	reversed
PROCEDURAL POSTURE	The Arkansas Department of Finance and Administration appealed a Rule 54(b)-certified partial summary judgment for American Honda Finance Corporation in a statutory tax-refund action.
STANDARD OF REVIEW	Summary judgment is reviewed to determine whether the evidence leaves a material question of fact unanswered, viewing the evidence in the light most favorable to the nonmoving party. Statutory interpretation is reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Richard A. Weiss, Director DF&A, Timothy Leathers, Commissioner of Revenue, Arkansas Department of Finance & Administration v. American Honda Finance Corporation

TOPICS

sales and use tax · tax refunds · tax deductions · statutory interpretation · appellate procedure

PRACTICE AREAS

taxation · state and local tax · appellate procedure · statutory interpretation · sovereign immunity

QUESTIONS PRESENTED

1. Whether sovereign immunity barred Honda's action seeking a refund under the Arkansas Bad Debt Statute.
2. Whether Honda was a taxpayer entitled to a bad-debt deduction or refund under Arkansas Code Annotated section 26-52-309.
3. Whether Honda acquired any taxpayer-refund rights through assignment of installment contracts from the sellers.

HOLDINGS

1. Sovereign immunity did not bar Honda's action because the State waived immunity by providing a statutory refund remedy under the proper circumstances.
2. Honda was not a taxpayer entitled to a deduction or refund under Arkansas Code Annotated section 26-52-309 because it was not liable to remit the motor-vehicle gross-receipts tax or report that tax.
3. The general taxpayer definition in the Arkansas Tax Procedure Act did not control the Bad Debt Statute because the Gross Receipts Act contains a specific taxpayer definition applicable to that subject matter.
4. Honda acquired no taxpayer-refund rights through assignment of the sellers' installment contracts because the sellers themselves were not taxpayers entitled to the refund.

KEY QUOTATIONS

> *“We hold that the circuit court erred in finding that Honda is a taxpayer under the "Bad Debt Statute" and entitled to a refund.”* (200 S.W.3d at 381)

> *“By providing the remedy of a refund under the proper circumstances, the State waived sovereign immunity.”* (200 S.W.3d at 385)

> *“The only party who is liable to pay the motor vehicle gross receipts tax is the consumer.”* (200 S.W.3d at 386)

FACTUAL BACKGROUND

Honda financed motor-vehicle sales by purchasing installment contracts from dealers and paying the dealers the financed amounts, including motor-vehicle gross-receipts tax. The consumers were the parties required to pay the tax to the Arkansas Department of Finance and Administration, although the dealers initially paid it and Honda reimbursed them. After consumers defaulted and Honda wrote off the uncollectible debts for federal income-tax purposes, Honda sought a proportional Arkansas gross-receipts-tax refund under the Bad Debt Statute.

PROCEDURAL HISTORY

Honda sought a refund or deduction of Arkansas motor-vehicle gross-receipts tax attributable to bad debts arising from financed vehicle sales. DF&A denied the claim, concluding Honda was not a taxpayer under Arkansas Code Annotated section 26-52-309. The Pulaski County Circuit Court entered partial summary judgment concluding that sovereign immunity did not bar the action and that Honda was a taxpayer entitled to seek the refund. The Arkansas Supreme Court reversed.

DISPOSITION

reversed

CASES CITED

- Mack v. Brazil, Adlong, & Winningham, PLC, 357 Ark. 1, 159 S.W.3d 291 (2004)
- Cooper Realty Invs., Inc. v. Arkansas Contractors Licensing Bd., 355 Ark. 156, 134 S.W.3d 1 (2003)
- St. Louis Southwestern Ry. Co. v. Ragland, 304 Ark. 1, 800 S.W.2d 410 (1990)
- Skelton v. B.C. Land Co., 256 Ark. 961, 513 S.W.2d 919 (1974)
- Rineco Chem. Indus., Inc. v. Weiss, 344 Ark. 118, 40 S.W.3d 257 (2001)
- Technical Servs. of Ark., Inc. v. Pledger, 320 Ark. 333, 896 S.W.2d 433 (1995)
- Pledger v. C.B. Form Co., 316 Ark. 22, 871 S.W.2d 333 (1994)
- Faulkner v. Arkansas Children's Hospital, 347 Ark. 941, 69 S.W.3d 393 (2002)
- Raley v. Wagner, 346 Ark. 234, 57 S.W.3d 683 (2001)
- Dunklin v. Ramsay, 328 Ark. 263, 944 S.W.2d 76 (1997)
- Stephens v. Arkansas Sch. for the Blind, 341 Ark. 939, 20 S.W.3d 397 (2000)
- Burcham v. City of Van Buren, 330 Ark. 451, 954 S.W.2d 266 (1997)
- State v. McLeod, 318 Ark. 781, 888 S.W.2d 639 (1994)
- Ford v. Keith, 338 Ark. 487, 996 S.W.2d 20 (1999)
- Kildow v. Baldwin Piano & Organ, 333 Ark. 335, 969 S.W.2d 190 (1998)
- D.H.S. v. Crunkleton, 303 Ark. 21, 791 S.W.2d 704 (1990)
- Newton v. Etoch, 332 Ark. 325, 965 S.W.2d 96 (1998)
- Ozark Gas Pipeline Corp. v. Arkansas Pub. Serv. Comm'n, 342 Ark. 591, 29 S.W.3d 730 (2000)
- Shelton v. Fiser, 340 Ark. 89, 8 S.W.3d 557 (2000)
- Guaranty Nat'l Ins. Co. v. Denver Roller, 313 Ark. 128, 854 S.W.2d 312 (1993)

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