SUPREME COURT OF MISSISSIPPI

Vincent J. Castigliola, Jr. v. Mississippi Department of Revenue

162 So. 3d 795 (Miss. 2015) · No. 2013-SA-01574-SCT · Decided April 30, 2015

SUMMARY

The Supreme Court of Mississippi held that the Mississippi Department of Revenue bears the initial burden of proving that a transaction falls within the State’s taxing authority, while the taxpayer bears the burden of proving an applicable exemption. The court further held that a casual sale between individuals does not become taxable merely because a broker provided marketing or other intermediary services. It reversed the chancery court and rendered judgment for Castigliola.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, Chief Justice; Waller, C.J.; Chandler, J.; King, J.; Dickinson, P.J.; Lamar, J.; Kitchens, J.; Pierce, J.; Coleman, J.
JURISDICTION	Mississippi
DECIDED	April 30, 2015
DOCKET	2013-SA-01574-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Castigliola appealed from the Jackson County Chancery Court's grant of summary judgment in favor of the Mississippi Department of Revenue in a challenge to a use-tax assessment and penalties arising from an out-of-state yacht purchase.
STANDARD OF REVIEW	Questions of law, including the burden of proof in an appeal from a Department of Revenue judgment, are reviewed de novo. Summary-judgment rulings are reviewed de novo. An administrative-agency decision is reversed when the petitioner proves that it is unsupported by substantial evidence, arbitrary or capricious, beyond the agency's power, or violates a statutory or constitutional right.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Vincent J. Castigliola, Jr. v. Mississippi Department of Revenue

TOPICS

sales and use tax | tax | administrative law | statutory interpretation | tax court procedure

PRACTICE AREAS

sales and use tax | administrative law | tax litigation

QUESTIONS PRESENTED

1. Whether the Mississippi Department of Revenue or the taxpayer bears the burden of proving that an out-of-state transaction is subject to Mississippi use tax when the taxpayer claims the casual-sale exclusion.
2. Whether the involvement of a broker in an otherwise casual sale between individuals makes the transaction subject to Mississippi sales or use tax.
3. Whether the chancery court properly granted summary judgment to the Mississippi Department of Revenue.

HOLDINGS

1. The Mississippi Department of Revenue bears the initial burden of proving that a transaction falls within the State's statutory authority to tax. Only after that showing does the burden shift to the taxpayer to prove that a statutory or regulatory exemption applies. The casual-sale provision is an exclusion from the taxing authority, not an exemption, so Castigliola did not bear the initial burden of proving it.
2. The mere involvement of a broker does not transform an otherwise nontaxable casual sale between individuals into a taxable retail transaction. Because Fallon sold the yacht to Castigliola, neither was in the boat trade, and Galati provided only marketing services without title, possession, control, or authority to negotiate or consummate the sale, the purchase was excluded from Mississippi use tax.

KEY QUOTATIONS

> *"Accordingly, we hold that the casual-sales exception to sales and use tax is an exclusion and not an exemption."* (¶22)

> *"This argument is supported by neither law nor sound reasoning."* (¶34)

> *"Accordingly, we reverse the trial court's order in favor of MDOR and render judgment in favor of Castigliola."* (¶42)

FACTUAL BACKGROUND

Vincent Castigliola, a Mississippi resident, purchased a yacht in Florida from Mark Fallon, an Ohio resident. Neither Castigliola nor Fallon was in the business of buying or selling boats. Fallon hired Galati Yacht Sales to provide marketing services for a commission, but Galati never held title, possession, or control of the yacht, did not negotiate the sale, and lacked authority to accept or reject offers. The Department assessed Mississippi use tax and penalties, treating the brokered transaction as taxable.

PROCEDURAL HISTORY

The Mississippi Department of Revenue audited Castigliola and assessed $7,588 in use tax and penalties. Castigliola paid the assessment and fees under protest, exhausted his administrative remedies, and appealed to the Jackson County Chancery Court. The chancery court granted summary judgment to the Department, concluding that the transaction was taxable under Florida law and that Castigliola failed to prove the casual-sale exception. The Mississippi Supreme Court reversed and rendered judgment for Castigliola.

DISPOSITION

reversed_and_remanded

CASES CITED

- Equifax, Inc. v. Mississippi Department of Revenue, 125 So. 3d 36, 41 (Miss. 2013)
- Hankins v. Maryland Casualty Co./Zurich American Insurance Co., 101 So. 3d 645, 652 (Miss. 2012)
- Stone v. Rogers, 186 Miss. 53, 189 So. 810, 812 (1939)
- Fishbelt Feeds, Inc. v. Mississippi Department of Revenue, 158 So. 3d 984, 988-92 (Miss. 2014)
- Mississippi State Tax Commission v. Medical Devices, Inc., 624 So. 2d 987, 990-91 (Miss. 1993)
- Harry D. Kantor & Son v. Stone, 203 Miss. 260, 34 So. 2d 492, 494 (1948)
- Johnson v. Cass & Emerson, 91 Vt. 103, 99 A. 633, 635 (1917)
- Stone v. Martin Veneer Corp., 183 Miss. 712, 184 So. 435, 437 (1938)
- Warburton-Beacham Supply Co. v. City of Jackson, 151 Miss. 503, 118 So. 606, 608 (1928)
- Pursue Energy Corp. v. Mississippi State Tax Commission, 968 So. 2d 368, 373 (Miss. 2007)
- Quitman County v. State, 910 So. 2d 1032, 1035 (Miss. 2005)
- McClendon v. State, 539 So. 2d 1375, 1377 (Miss. 1989)
- Mississippi State Tax Commission v. Oscar E. Austin Trust, 719 So. 2d 1172, 1174-75 (Miss. 1998)
- Mississippi State Tax Commission v. Bates, 567 So. 2d 190, 193 (Miss. 1990)
- Sherman v. Commissioner of Revenue, 24 Mass. App. Ct. 64, 506 N.E.2d 160, 162 (1987)
- State v. Tysdal, 303 Minn. 233, 228 N.W.2d 230, 233 (1975)
- Doolittle v. Johnson, 250 A.2d 822, 823-24 (Me. 1969)
- Equifax, Inc. v. Mississippi Department of Revenue, 134 S. Ct. 2872, 189 L. Ed. 2d 833 (2014)