UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

United States v. Light Aggregates, Inc.

343 F.2d 429 (8th Cir. 1965) · No. No. 17694 · Decided April 6, 1965

SUMMARY

The Eighth Circuit addressed the proper depletion allowance for shale mined and processed by Light Aggregates, Inc. under the Internal Revenue Code. Applying United States v. Cannelton Sewer Pipe Co. and related precedent, the court held that the depletion calculation must be based on the raw shale before kiln processing, rather than on sales of the finished lightweight aggregate, and reversed the district court.

CASE DETAILS

COURT	United States Court of Appeals for the Eighth Circuit
WRITING FOR THE COURT	Matthes, Circuit Judge; Van Oosterhout, Circuit Judge; Mehaffy, Circuit Judge
JURISDICTION	Federal
DECIDED	April 6, 1965
DOCKET	No. 17694
DISPOSITION	reversed
PROCEDURAL POSTURE	The United States appealed from a district court judgment awarding Light Aggregates a refund based on a depletion allowance calculated from the sales price of its finished lightweight aggregate.
STANDARD OF REVIEW	De novo review of the district court's interpretation and application of the Internal Revenue Code's depletion provisions; the basic facts were undisputed.
PRECEDENTIAL VALUE	Published precedential federal appellate opinion
PARTIES	United States of America v. Light Aggregates, Inc.

TOPICS

tax deductions · tax · minerals · statutory interpretation · tax refunds

PRACTICE AREAS

Federal taxation · Natural resources taxation · Percentage depletion

QUESTIONS PRESENTED

1. Whether the commercially marketable mineral product for purposes of the percentage depletion allowance was the raw shale immediately before kiln processing or the finished lightweight aggregate.
2. Whether the kiln heating, crushing, and screening processes constituted ordinary treatment processes included within mining under Internal Revenue Code § 613(c)(2).

HOLDINGS

1. For purposes of the percentage depletion allowance, the raw shale immediately before kiln processing was the first commercially marketable mineral product because it was suitable for industrial use or consumption at that point. The taxpayer's lack of actual sales of raw shale did not establish that no market existed.
2. The kiln heating and subsequent processing did not extend the mining stage because the raw shale had already become suitable for industrial use or consumption before kiln treatment. The district court therefore applied an erroneous legal concept in treating all of the taxpayer's processes as mining.

KEY QUOTATIONS

> *"As we understand Cannelton and Monolith, they establish these significant principles: (1) that it was the intent of Congress to grant miners a depletion allowance based on constructive income from the raw material produced and not on the sales of the finished product; (2) the statutory percentage depletion allowance on the gross income of an integrated mining operator should be cut off at the point where the mineral first became suitable for industrial use or consumption; (3) Congress intended integrated mining-manufacturing operations to be treated as if the operator were selling the mineral to himself."* (343 F.2d at 432)

> *"Since the shale was fit for industrial use in its raw state, Taxpayer as an integrated miner-manufacturer was its own market."* (343 F.2d at 432)

> *"In summary, we are satisfied that here the District Court applied an erroneous legal concept in arriving at its conclusion. Accordingly, the judgment must be and hereby is reversed."* (343 F.2d at 433)

FACTUAL BACKGROUND

Light Aggregates, a South Dakota corporation, mined shale by an open-pit process and transported it approximately eleven miles to its plant. It heated the shale in a rotary kiln at approximately 2,000 degrees, causing it to expand into clinker, and then crushed and screened the material to produce lightweight aggregate sold under the name Heydite. The taxpayer claimed percentage depletion based on the finished aggregate's sales price, while the Commissioner treated the raw shale immediately before kiln processing as the cutoff point.

PROCEDURAL HISTORY

Light Aggregates paid deficiencies assessed by the Commissioner for fiscal years 1959 and 1960 and sought a refund for fiscal year 1961 after the Commissioner denied its claims. The district court held that the taxpayer's mining process included kiln treatment and subsequent crushing and screening, and therefore calculated the percentage depletion allowance from sales of the finished aggregate. The Eighth Circuit reversed.

DISPOSITION

reversed

CASES CITED

- United States v. Cannelton Sewer Pipe Co., 364 U.S. 76, 80 S. Ct. 1581, 4 L. Ed. 2d 1581 (1960)
- Riddell v. Monolith Portland Cement Co., 301 F.2d 488 (9th Cir. 1962), summarily reversed, 371 U.S. 537, 83 S. Ct. 378, 9 L. Ed. 2d 492 (1963)
- Virginia Greenstone Co. v. United States, 308 F.2d 669 (4th Cir. 1962)
- Morton Salt Co. v. United States, 316 F.2d 931 (Ct. Cl. 1963), cert. denied, 375 U.S. 951, 84 S. Ct. 442, 11 L. Ed. 2d 312 (1963)
- United States v. Longhorn Portland Cement Co., 328 F.2d 491 (5th Cir. 1964)
- C.I.R. v. Hallquist, 291 F.2d 49 (7th Cir. 1961), cert. denied, 368 U.S. 930, 82 S. Ct. 367, 7 L. Ed. 2d 193 (1961)
- Standard Realization Co. v. United States, 289 F.2d 247 (7th Cir. 1961)
- United States v. Portland Cement Co. of Utah, 338 F.2d 798 (10th Cir. 1964)
- Riddell v. California Portland Cement Co., 297 F.2d 345 (9th Cir. 1962)
- Riddell v. Victorville Lime Rock Co., 292 F.2d 427 (9th Cir. 1961)
- Bookwalter v. Centropolis Crusher Co., 305 F.2d 27 (8th Cir. 1962)