SUPREME COURT OF ALABAMA

Ex parte Exxon Mobil Corp.

926 So. 2d 303 (Ala. 2005) · No. 1040538 · Decided September 2, 2005

SUMMARY

The Supreme Court of Alabama reviewed whether Baldwin County could impose a local use tax on Exxon Mobil's offshore drilling and production facility. The court held that Ala. Code § 40-20-2(c) and (d) broadly prohibited such taxation of offshore drilling or production facilities, reversed the judgment upholding the assessment, and remanded the case.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Harwood, Justice; Nabers, Chief Justice; See, Justice; Smith, Justice; Bolin, Justice; Parker, Justice
JURISDICTION	Alabama
DECIDED	September 2, 2005
DOCKET	1040538
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Exxon petitioned the Supreme Court of Alabama for a writ of certiorari to review the Court of Civil Appeals' affirmance, without opinion, of a Baldwin Circuit Court judgment upholding Baldwin County's final use-tax assessment.
STANDARD OF REVIEW	On certiorari review of the Court of Civil Appeals, the Supreme Court accorded no presumption of correctness to the intermediate appellate court's legal conclusions and applied de novo review. Because the material facts were undisputed and the case involved statutory construction, de novo review also applied to the trial court's ruling.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential.
PARTIES	Exxon Mobil Corporation v. Baldwin County, Baldwin County Commission, Baldwin County Sales and Use Tax Department

TOPICS

sales and use tax · state and local tax · municipal law · statutory interpretation · writ of certiorari

PRACTICE AREAS

state and local taxation · sales and use tax · municipal taxation · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether Alabama Code § 40-20-2(c) and (d) prohibited Baldwin County from imposing its local use tax on Exxon's offshore drilling and production facility.
2. When the taxable event for a use tax occurred for property manufactured outside Alabama and transported into the state.
3. Whether the Alabama Department of Revenue's preliminary audit information and related communications were entitled to substantial weight as an administrative interpretation of § 40-20-2(c) and (d).

HOLDINGS

1. The clear and comprehensive language of § 40-20-2(c) and (d) exempted Exxon's Baldwin offshore facility from Baldwin County's use tax because the facility was an offshore drilling or production facility located on submerged lands and the statute prohibited local taxation directly or indirectly upon such facilities and equipment.
2. For property manufactured outside Alabama and transported into the state, the local use-tax taxable event could occur only after interstate transportation ended and the property came to rest in Alabama for use or consumption.
3. The Department of Revenue's preliminary audit information and communications were not entitled to favorable administrative-construction weight because the department had made no formal determination that the statutory limitations were unavailable to Exxon.

KEY QUOTATIONS

> *"The legislature obviously resorted to "overkill" in the redundantly broad and all-encompassing language it used in subsection (c) to prevent a county or municipality that is receiving a share of the severance tax imposed on offshore drilling or production from levying, imposing, or collecting any other sort of tax on the ownership, operation, or maintenance of an offshore drilling or production facility."* (310)

> *"Only when the platform and templates came to rest could there be a taxable event susceptible of the imposition of a use tax."* (313)

> *"Having determined that the clear language of § 40-20-2(c) and (d) entitles Exxon to an "exemption" from the Baldwin County use tax under the facts and circumstances relating to the construction, transportation, and placement of the Baldwin offshore facility, we reverse the judgment of the Court of Civil Appeals and remand the case for that court to reverse the judgment of the Baldwin Circuit Court"* (314)

FACTUAL BACKGROUND

Exxon had platforms and templates for offshore natural-gas production manufactured in Louisiana from materials, supplies, and equipment it apparently purchased there. The completed structures were transported by water to submerged lands within Baldwin County and placed on caissons or foundations for offshore production. Exxon paid state use taxes, ad valorem taxes, and state severance taxes, while Baldwin County sought to impose its own use tax on the materials and equipment associated with the facility.

PROCEDURAL HISTORY

Baldwin County assessed Exxon use tax, penalties, and interest on materials and equipment associated with an offshore drilling and production facility. After an administrative hearing officer declined to set aside the assessment, the county issued a final assessment totaling $841,384.77. The Baldwin Circuit Court upheld the assessment and entered an amended judgment for $949,045.79. The Court of Civil Appeals affirmed without opinion, and the Supreme Court of Alabama granted certiorari to decide whether Alabama Code § 40-20-2(c) and (d) barred the county's use tax.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Civil Appeals was directed to reverse the Baldwin Circuit Court judgment concerning Exxon's use-tax liability and remand to the circuit court with instructions to enter an order nullifying and setting aside the final assessment in its entirety and restraining Baldwin County, the Baldwin County Commission, and the Baldwin County Sales and Use Tax Department from taking steps to collect it.

CASES CITED

- Exxon Mobil Corp. v. Baldwin County, 921 So. 2d 478 (Ala. Civ. App. 2004) (table)
- Ex parte Toyota Motor Corp., 684 So. 2d 132, 135 (Ala. 1996)
- State Department of Revenue v. Robertson, 733 So. 2d 397, 399 (Ala. Civ. App. 1998)
- Pilgrim v. Gregory, 594 So. 2d 114, 120 (Ala. Civ. App. 1991)
- Ex parte Fleming Foods of Alabama, Inc., 648 So. 2d 577, 578 (Ala. 1994)
- Bean Dredging, L.L.C. v. Alabama Department of Revenue, 855 So. 2d 513, 517 (Ala. 2003)
- Ex parte Emerald Mountain Expressway Bridge, L.L.C., 856 So. 2d 834, 839 (Ala. 2003)
- State v. Advertiser Co., 257 Ala. 423, 59 So. 2d 576 (1952)
- State v. Union Tank Car Co., 281 Ala. 246, 201 So. 2d 402 (1967)
- Gulf Stevedore Corp. v. Rabren, 286 Ala. 482, 242 So. 2d 386 (1970)
- Pitts v. Gangi, 896 So. 2d 433, 436 (Ala. 2004)
- DeKalb County LP Gas Co. v. Suburban Gas, Inc., 729 So. 2d 270, 275 (Ala. 1998)
- Employees' Retirement System of Alabama v. Head, 369 So. 2d 1227, 1228 (Ala. 1979)
- State v. Taylor, 262 Ala. 639, 80 So. 2d 618 (1954)
- Alabama-Georgia Syrup Co. v. State, 253 Ala. 49, 42 So. 2d 796 (1949)
- State v. Calumet & Hecla Consolidated Copper Co., 259 Ala. 225, 66 So. 2d 726 (1953)

- Layne Central Co. v. Curry, 243 Ala. 165, 8 So. 2d 839 (1942)
- State v. Ingalls Iron Works Co., 274 Ala. 162, 146 So. 2d 87 (1962)
- Paramount-Richards Theatres, Inc. v. State, 252 Ala. 54, 39 So. 2d 380 (1949)
- State v. Toolen, 277 Ala. 120, 167 So. 2d 546 (1964)
- State v. Smith, 256 Ala. 426, 55 So. 2d 130 (1951)
- Henneford v. Silas Mason Co., 300 U.S. 577 (1937)
- City of Birmingham v. AmSouth Bank, N.A., 591 So. 2d 473, 477 (Ala. 1991)