SUPREME COURT OF OHIO

DeWeese v. Zaino

100 Ohio St. 3d 324 (Ohio 2003) · Decided December 24, 2003

SUMMARY

The Ohio Supreme Court held that county auditors appealing a Tax Commissioner's final determination to the Board of Tax Appeals must comply with R.C. 5717.02 and may challenge only errors addressed in the Commissioner's final determination. Because the challenged property was neither listed in Honda's intercounty personal property tax returns nor considered by the Tax Commissioner, the auditors' appeals were jurisdictionally defective. The court affirmed the Board of Tax Appeals' dismissal of the appeals.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Alice Robie Resnick; Thomas J. Moyer; F. E. Sweeney; Maureen O'Connor; Terrence O'Donnell; Paul E. Pfeifer; Lundberg Stratton
JURISDICTION	Ohio
DECIDED	December 24, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	The county auditors appealed to the Supreme Court of Ohio from the Board of Tax Appeals' dismissal of their appeals from the Tax Commissioner's final determinations concerning Honda's intercounty personal property tax returns.
STANDARD OF REVIEW	The Supreme Court reviewed whether the BTA's dismissal of the auditors' appeals was reasonable and lawful.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Ohio; binding precedent in Ohio.
PARTIES	Shelby County Auditor, Logan County Auditor, Union County Auditor v. Tax Commissioner of Ohio, Honda of America Manufacturing, Inc.

TOPICS

tax court procedure · appellate jurisdiction · tax · administrative procedure act · statutory interpretation

PRACTICE AREAS

tax administrative law appellate procedure

QUESTIONS PRESENTED

1. Whether county auditors may appeal to the Board of Tax Appeals issues concerning an intercounty personal property tax return that were not presented to or considered by the Tax Commissioner in the final determination.
2. Whether the BTA had jurisdiction over the auditors' appeals when their notices of appeal did not specify errors in the Tax Commissioner's final determinations as required by R.C. 5717.02.

HOLDINGS

1. A county auditor's appeal to the Board of Tax Appeals under R.C. 5717.02 is limited to errors in the Tax Commissioner's final determination and may not raise issues concerning property or claims that the Commissioner did not consider.
2. Failure to comply with the mandatory requirements of R.C. 5717.02, including specifying an error in the Tax Commissioner's final determination, deprives the BTA of jurisdiction.

KEY QUOTATIONS

> *"Thus, the auditors' right to appeal is not open-ended, it requires compliance with the specific and mandatory provisions of R.C. 5717.02."* (100 Ohio St. 3d at 327)

> *"The only issues that can be appealed to the BTA from a final determination by the Tax Commissioner are those that were considered by him, as set forth in his final determination."* (100 Ohio St. 3d at 328)

> *"Decision affirmed."* (100 Ohio St. 3d at 329)

FACTUAL BACKGROUND

Honda filed intercounty personal property tax returns and balance sheets for tax years 1996, 1997, and 1998. The Tax Commissioner reviewed Honda's listed property and issued amended assessment certificates; Honda challenged several assessment issues in petitions for reassessment, but the Commissioner did not address property omitted from the returns or the exempt status of certain patterns, jigs, dies, and drawings. The county auditors appealed to the BTA, alleging that the Commissioner had erroneously exempted assets not considered in the final determinations.

PROCEDURAL HISTORY

Honda filed intercounty personal property tax returns for tax years 1996 through 1998 and petitioned for reassessment of amended assessments issued by the Tax Commissioner. After the Tax Commissioner issued final determinations, Honda appealed to the BTA, and the county auditors separately appealed, asserting that the Commissioner had erroneously exempted certain assets. The BTA dismissed the auditors' appeals as jurisdictionally defective because they raised issues beyond those addressed in the Commissioner's final determinations. The Supreme Court of Ohio consolidated the auditors' appeals and affirmed.

DISPOSITION

affirmed

CASES CITED

- Am. Restaurant & Lunch Co. v. Glander (1946), 147 Ohio St. 147, 34 O.O. 8, 70 N.E.2d 93
- Queen City Valves, Inc. v. Peck (1954), 161 Ohio St. 579, 583, 53 O.O. 430, 120 N.E.2d 310
- Buckeye Internatl., Inc. v. Limbach (1992), 64 Ohio St.3d 264, 267, 595 N.E.2d 347
- Campanella v. Lindley (1981), 67 Ohio St.2d 290, 21 O.O.3d 182, 423 N.E.2d 472
- Hatchadorian v. Lindley (1983), 3 Ohio St.3d 19, 3 OBR 491, 445 N.E.2d 659
- Ashland Cty. Bd. of Commrs. v. Ohio Dept. of Taxation (1992), 63 Ohio St.3d 648, 655, 590 N.E.2d 730