SUPREME COURT OF WASHINGTON

City of Spokane v. Washington State Department of Revenue

City of Spokane v. Wash. State Dep't of Revenue, 38 P.3d 1010 (Wash. 2002) · No. 70765-1 · Decided January 24, 2002

SUMMARY

The Washington Supreme Court reviewed the apportionment of Spokane's sewerage services between the higher-rate public utility tax for sewerage collection and the lower-rate business and occupation tax for sewage transfer and treatment. The court held that the technical meaning of sewerage collection governs and adopted a substantial-use test, concluding that lateral sewers are collection sewerage while interceptor sewers primarily transfer sewage. The court reversed the Court of Appeals and reinstated the superior court's decision in favor of Spokane.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Chambers, J.; Alexander, C.J.; Smith, J.; Johnson, J.; Madsen, J.; Sanders, J.; Ireland, J.; Bridge, J.; Owens, J.
JURISDICTION	Washington
DECIDED	January 24, 2002
DOCKET	70765-1
DISPOSITION	reversed
PROCEDURAL POSTURE	The City sought review of a Washington Court of Appeals decision affirming the Board of Tax Appeals' interpretation of the tax treatment of sewerage facilities.
STANDARD OF REVIEW	Questions of law under the Administrative Procedure Act are reviewed de novo; relief is granted if the agency erroneously interpreted or applied the law. Unchallenged agency findings of fact are verities on appeal.
PRECEDENTIAL VALUE	precedential
PARTIES	City of Spokane, by and through its Wastewater Management Department v. Washington State Department of Revenue

TOPICS

state and local tax | statutory interpretation | administrative law | judicial review of agency action | appellate procedure

PRACTICE AREAS

state and local taxation | administrative law | statutory interpretation | appellate procedure

QUESTIONS PRESENTED

1. How should the term "sewerage collection" in RCW 82.16.020 and WAC 458-20-251 be interpreted for purposes of allocating income between the public utility tax and the lower business and occupation tax?
2. Does sewerage collection continue through an interceptor pipe until the last customer connection, or does collection end when the system's substantial function changes from receiving sewage to transferring it?

HOLDINGS

1. The term "collection" is a technical term of art in the sewerage industry and must be interpreted according to its technical meaning rather than an ordinary dictionary definition.
2. Washington's public utility tax applies to the collection function performed by lateral sewers, while interceptor sewers are engaged in transfer and are not collection sewerage merely because an occasional customer connects to them. The court adopted a substantial use test rather than the Department's sole-use or last-connection test.
3. Because the statute and regulation are unambiguous, the court reviews their meaning de novo and need not resolve the competing principles of deference to the agency and construing tax statutes against the taxing power.

KEY QUOTATIONS

> *"We adopt the substantial use test for determining where collection ends and transfer begins, holding that a lateral is a collection sewer, whereas an interceptor is involved in transfer of sewage."* (1014-1015)

> *"However, where an otherwise common word is given a distinct meaning in a technical dictionary or other technical reference and has a well-accepted meaning within the industry, and when the word is used in a rule promulgated by an expert agency familiar with the technical meaning, courts should turn to a technical rather than a general purpose dictionary to resolve ambiguities in its definition."* (1014)

FACTUAL BACKGROUND

Spokane operated a sewer system consisting of lateral pipes that received sewage from customers and larger interceptor or trunk pipes that conveyed sewage toward treatment and disposal facilities. Washington imposed a higher public utility tax on income attributable to sewerage collection and a lower business and occupation tax on transportation and treatment. The Department of Revenue treated nearly all of Spokane's sewer pipes as collection facilities because collection continued until the last customer connection, while Spokane argued that interceptor pipes primarily performed a transfer function and should receive the lower tax rate.

PROCEDURAL HISTORY

The Board of Tax Appeals upheld the Department of Revenue's determination that sewerage collection continued until the point where no new sewage entered the system. The superior court reversed, but the Court of Appeals reversed the superior court and reinstated the Department's position. The Supreme Court of Washington granted review, reversed the Court of Appeals, and affirmed the superior court.

DISPOSITION

reversed

CASES CITED

- Tapper v. Employment Sec. Dep't, 122 Wash. 2d 397, 407, 858 P.2d 494 (1993)
- Enter. Leasing, Inc. v. City of Tacoma, 139 Wash. 2d 546, 551, 988 P.2d 961 (1999)
- Keeton v. Dep't of Soc. & Health Servs., 34 Wash. App. 353, 361, 661 P.2d 982 (1983)
- Hickle v. Whitney Farms, Inc., 107 Wash. App. 934, 945, 29 P.3d 50 (2001)
- Blue Mountain Mem'l Gardens v. Dep't of Licensing, 94 Wash. App. 38, 42, 971 P.2d 75 (1999)
- San Juan County v. Ayer, 24 Wash. App. 852, 854, 604 P.2d 1304 (1979)
- City of Seattle v. Richard Bockman Land Corp., 8 Wash. App. 214, 217, 505 P.2d 168 (1973)
- State v. Pacheco, 125 Wash. 2d 150, 154, 882 P.2d 183 (1994)
- Am. Legion Post No. 32 v. City of Walla Walla, 116 Wash. 2d 1, 8, 802 P.2d 784 (1991)
- State v. Fjermestad, 114 Wash. 2d 828, 835, 791 P.2d 897 (1990)
- Towne v. Eisner, 245 U.S. 418, 425, 38 S. Ct. 158, 62 L. Ed. 372 (1918)
- Impecoven v. Dep't of Revenue, 120 Wash. 2d 357, 363, 841 P.2d 752 (1992)
- State v. Elgin, 118 Wash. 2d 551, 555, 825 P.2d 314 (1992)
- Duwamish Warehouse Co. v. Hoppe, 102 Wash. 2d 249, 254, 684 P.2d 703 (1984)