SUPREME COURT OF THE STATE OF WASHINGTON

Dot Foods, Inc. v. Dep't of Revenue

Dot Foods · No. No. 92398-1 · Decided March 17, 2016

SUMMARY

The Washington Supreme Court considered whether retroactive application of a legislative amendment narrowing a business and occupation tax exemption violated due process, collateral estoppel, or separation of powers principles. The court held that the amendment's retroactive application was rationally related to legitimate legislative purposes and did not violate due process. It further held that collateral estoppel did not apply to tax periods not adjudicated in the prior case and affirmed in part and reversed in part.

CASE DETAILS

COURT	Supreme Court of the State of Washington
WRITING FOR THE COURT	Yu, J.
JURISDICTION	Washington
DECIDED	March 17, 2016
DOCKET	No. 92398-1
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Department of Revenue appealed, and Dot Foods cross-appealed, from a superior court summary judgment ruling in a tax-refund action. The Court of Appeals certified the case to the Washington Supreme Court.
STANDARD OF REVIEW	The court reviewed summary judgment de novo and reviewed the retroactive tax legislation under the rational-basis due process standard applicable to retroactive economic legislation.
PRECEDENTIAL VALUE	published precedential Washington Supreme Court decision
PARTIES	State of Washington, Department of Revenue v. Dot Foods, Inc.

TOPICS

tax · due process · statutory interpretation · tax statute of limitations · summary judgment

PRACTICE AREAS

taxation constitutional law civil procedure state and local taxation

QUESTIONS PRESENTED

1. Whether retroactive application of the 2010 amendment narrowing the B&O tax direct seller's exemption violated the Due Process Clause of the Fourteenth Amendment.
2. Whether collateral estoppel based on Dot Foods I barred application of the amendment to the May 2006 through December 2007 tax periods.
3. Whether retroactive application of the amendment violated separation of powers principles by rejecting or curtailing the judicial interpretation in Dot Foods I.

HOLDINGS

1. Retroactive application of the 2010 amendment to the May 2006 through December 2007 tax periods did not violate due process because it served legitimate legislative purposes and was rationally related to those purposes.
2. Collateral estoppel did not apply because the May 2006 through December 2007 tax periods were not actually litigated or necessarily and finally determined in Dot Foods I, and the intervening statutory amendment changed the applicable legal context.
3. Retroactive application of the amendment did not violate separation of powers because the legislature preserved final judgments in Dot Foods I and applied the amendment only to tax periods not encompassed by that judgment.

KEY QUOTATIONS

> *"The due process standard to be applied to tax statutes with retroactive effect ... is the same as that generally applicable to retroactive economic legislation"* (5)

> *"Consequently, there is no due process violation."* (13)

> *"We find the reasoning of these cases persuasive and hold that collateral estoppel does not apply to subsequent taxing periods that were not previously adjudicated."* (18)

> *"We affirm the trial court's decision to grant the Department's motion for summary judgment on the collateral estoppel and separation of powers arguments, but we reverse the trial court's decision to grant Dot Foods' motion for summary judgment on the due process claim."* (20-21)

FACTUAL BACKGROUND

Dot Foods, an Illinois-based food reseller, sold products to Washington service companies through its wholly owned subsidiary and qualified for a former B&O tax direct seller's exemption. After the Department changed its interpretation of the exemption, the Washington Supreme Court held in Dot Foods I that the interpretation was contrary to the statute and that Dot Foods remained qualified for the exemption to the extent its sales qualified. The legislature subsequently amended the statute in 2010 to narrow the exemption retroactively and repeal it prospectively. Dot Foods sought a refund for B&O taxes paid during May 2006 through December 2007, an interim period not directly litigated in Dot Foods I.

PROCEDURAL HISTORY

Dot Foods sought a refund of business and occupation taxes paid for May 2006 through December 2007 after the Department denied the request based on the retroactive application of a 2010 amendment narrowing the direct seller's exemption. The Thurston County Superior Court granted the Department summary judgment on collateral estoppel and separation of powers, but granted Dot Foods summary judgment on due process. The Department appealed and Dot Foods cross-appealed; the Court of Appeals certified the case to the Supreme Court.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The opinion does not state separate remand instructions. It reverses the trial court's due process summary judgment for Dot Foods and affirms the Department's summary judgment on collateral estoppel and separation of powers; the amendment applies to the May 2006 through December 2007 periods, and Dot Foods is liable for the B&O tax for those periods.

CASES CITED

- Dot Foods, Inc. v. Department of Revenue, 166 Wash. 2d 912, 215 P.3d 185 (2009)
- TracFone Wireless, Inc. v. Department of Revenue, 170 Wash. 2d 273, 242 P.3d 810 (2010)
- United States v. Carlton, 512 U.S. 26 (1994)
- Pension Benefit Guaranty Corp. v. R.A. Gray & Co., 467 U.S. 717 (1984)
- In re Estate of Hambleton, 181 Wash. 2d 802, 335 P.3d 398 (2014)
- In re Estate of Bracken, 175 Wash. 2d 549, 290 P.3d 99 (2012)
- Amunrud v. Board of Appeals, 158 Wash. 2d 208, 143 P.3d 571 (2006)
- State ex rel. Healy v. Murphy, 138 Wash. 2d 800, 982 P.2d 611 (1999)
- Belas v. Kiga, 135 Wash. 2d 913, 959 P.2d 1037 (1998)
- Ford Motor Co. v. Barrett, 115 Wash. 2d 556, 800 P.2d 367 (1990)
- American Network, Inc. v. Utilities & Transportation Commission, 113 Wash. 2d 59, 776 P.2d 950 (1989)
- Bang D. Nguyen v. Department of Health, Medical Quality Assurance Commission, 144 Wash. 2d 516, 29 P.3d 689 (2001)
- Ellestad v. Swayze, 15 Wn.2d 281, 130 P.2d 349 (1942)
- American National Can Corp. v. Department of Revenue, 114 Wash. 2d 236, 787 P.2d 545 (1990)
- A. Magnano Co. v. Hamilton, 292 U.S. 40 (1934)
- Tesoro Refining & Marketing Co. v. Department of Revenue, 159 Wash. App. 104, 246 P.3d 211 (2010)
- W.R. Grace & Co. v. Department of Revenue, 137 Wash. 2d 580, 973 P.2d 1011 (1999)
- Digital Equipment Corp. v. Department of Revenue, 129 Wash. 2d 177, 916 P.2d 933 (1996)
- State v. Pacific Telephone & Telegraph Co., 9 Wash. 2d 11, 117 P.2d 542 (1941)

- Welch v. Henry, 305 U.S. 134 (1938)
- Christensen v. Grant County Hospital District No. 1, 152 Wash. 2d 299, 96 P.3d 957 (2004)
- Lopez-Vasquez v. Department of Labor & Industries, 168 Wn. App. 341, 276 P.3d 354 (2012)
- Commissioner v. Sunnen, 333 U.S. 591 (1948)
- Smith v. United States, 242 F.2d 486 (5th Cir. 1957)
- Monteith Bros. Co. v. United States, 142 F.2d 139 (7th Cir. 1944)
- Henricksen v. Seward, 135 F.2d 986 (9th Cir. 1943)
- Hale v. Wellpinit School District No. 49, 165 Wash. 2d 494, 198 P.3d 1021 (2009)
- Tyler Pipe Industries, Inc. v. Department of Revenue, 105 Wn.2d 318, 715 P.2d 123 (1986)
- National Can Corp. v. Department of Revenue, 109 Wash. 2d 878, 749 P.2d 1286 (1988)
- American National Can Corp. v. Department of Revenue, 114 Wash. 2d 236, 787 P.2d 545 (1990)
