MASSACHUSETTS SUPREME JUDICIAL COURT

AA Transportation Co. v. Commissioner of Revenue

454 Mass. 114 (2009) · Decided June 12, 2009

SUMMARY

The Massachusetts Supreme Judicial Court held that a transportation company must possess a certificate of public convenience and necessity under G. L. c. 159A, § 7, at the time it purchases buses to qualify for the sales-tax exemption in G. L. c. 64H, § 6 (aa). Because AA Transportation obtained its certificate only in 2002, it was not entitled to an abatement for buses purchased in 1999, 2000, and 2001. The court affirmed the Appellate Tax Board's decision upholding the Commissioner of Revenue's denial of the abatement.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Cowin, J.
JURISDICTION	Massachusetts
DECIDED	June 12, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	AA Transportation appealed the Appellate Tax Board's decision upholding the Commissioner of Revenue's denial of a sales-tax abatement. The Supreme Judicial Court transferred the case from the Appeals Court on its own initiative.
STANDARD OF REVIEW	The court accords the Appellate Tax Board's decision great deference and will not disturb it if based on substantial evidence and a correct application of law. Statutory interpretation is reviewed as a question of law, although the Board's reasonable interpretation of a tax statute receives weight because of its expertise.
PRECEDENTIAL VALUE	Published precedential opinion of the Massachusetts Supreme Judicial Court.
PARTIES	AA Transportation Co. v. Commissioner of Revenue

TOPICS

sales and use tax · tax · statutory interpretation · administrative law · agency adjudication

PRACTICE AREAS

state and local tax | sales and use tax | administrative law

QUESTIONS PRESENTED

1. Whether G. L. c. 64H, § 6 (aa), permits a transportation company to claim a sales-tax exemption for buses purchased before the company possessed a certificate of public convenience and necessity under G. L. c. 159A, § 7.
2. Whether AA Transportation qualified for the exemption based on the type of bus service it operated.

HOLDINGS

1. A taxpayer seeking the sales-tax exemption under G. L. c. 64H, § 6 (aa), must possess a certificate of public convenience and necessity under G. L. c. 159A, § 7, at the time of purchase. A certificate obtained after the purchases cannot support a retroactive abatement.
2. AA Transportation failed to carry its burden of proving that it fell clearly and unequivocally within the statutory sales-tax exemption because it lacked the required § 7 certificate when it made the purchases.

KEY QUOTATIONS

> *"Given the purpose of the exemption and the practicalities of tax administration, we conclude that the board's decision that a taxpayer must hold a § 7 certificate at the time of purchase in order to be exempt from sales tax is a reasonable one."* (119-120)

> *"Therefore, there was no error in the board's decision to interpret G. L. c. 64H, § 6 (aa), to permit a sales tax exemption only for purchases that take place when the taxpayer possesses a § 7 certificate of exemption at the time of purchase, and to uphold the commissioner's denial of AA Transportation's request"* (120-121)

> *"The burden remains with the taxpayer to establish that it is entitled to an exemption, and the exemption will not be allowed unless the taxpayer demonstrates that it falls "clearly and unequivocally . . . within the terms of the exemption.""* (121)

FACTUAL BACKGROUND

AA Transportation operated charter and special bus services in Massachusetts beginning in 1996. It purchased buses in 1999, 2000, and 2001 and paid $140,512 in sales tax, but it did not obtain a certificate of public convenience and necessity under G. L. c. 159A, § 7, until August 2002. It sought an abatement for the earlier purchases, relying on the later-issued certificate and on a sales-tax exemption certificate that the Department of Revenue had erroneously issued while the § 7 application was pending.

PROCEDURAL HISTORY

AA Transportation applied for a sales-tax abatement for buses purchased in 1999, 2000, and 2001. After a hearing, the Commissioner denied the request; the Appellate Tax Board upheld the denial. The Appeals Court received AA Transportation's appeal, and the Supreme Judicial Court transferred the case on its own initiative and affirmed the Board's decision.

DISPOSITION

affirmed

CASES CITED

- Boston Professional Hockey Ass'n v. Commissioner of Revenue, 443 Mass. 276, 285 (2005)
- Bell Atl. Mobile of Mass. Corp., Ltd. v. Commissioner of Revenue, 451 Mass. 280, 283 (2008)
- RHI Holdings, Inc. v. Commissioner of Revenue, 51 Mass. App. Ct. 681, 685 (2001)
- Massachusetts Broken Stone Co. v. Weston, 430 Mass. 637, 640 (2000)
- Dowling v. Registrar of Motor Vehicles, 425 Mass. 523, 525 (1997)
- Massachusetts Med. Soc'y v. Commissioner of Ins., 402 Mass. 44, 62 (1988)
- Western Mass. Lifecare Corp. v. Assessors of Springfield, 434 Mass. 96, 101-102 (2001)
- Boston Symphony Orch., Inc. v. Assessors of Boston, 294 Mass. 248, 257 (1936)
- Boston Safe Deposit & Trust Co. v. State Tax Comm'n, 346 Mass. 100, 105 (1963)
- New England Legal Found. v. Boston, 423 Mass. 602, 613 (1996)
- Macy's East, Inc. v. Commissioner of Revenue, 441 Mass. 797, 804, cert. denied, 543 U.S. 957 (2004)
- South Boston Sav. Bank v. Commissioner of Revenue, 418 Mass. 695, 698 (1994)