

Court of Appeals, State of Michigan

ORDER

Owens-Brockway Glass Container Inc v City of Charlotte

Michael J. Riordan
Presiding Judge

Docket No. 314192

Jane E. Markey

LC No. 11-000121-AA

Michael J. Kelly
Judges

The Court orders that the motion for reconsideration is DENIED.

MCR 7.203(A)(1)(a) applies to bar appellant from an appeal of right in this Court in this case because appellee State Tax Commission (STC) acted as a tribunal in adjudicating the dispute between appellant and appellee City of Charlotte over whether appellant's industrial facilities tax exemption certificate should be revoked pursuant to the provisions of MCL 207.565(2)-(3). See Black's Law Dictionary (9th ed), p 1646 (defining a "tribunal" in relevant part as "[a] court or other adjudicatory body"). The published opinions of this Court regarding appeals as of right to this Court from circuit court orders entered on review of STC proceedings that are cited by appellant are inapposite because they involve appeals filed in this Court before the February 1, 1994 effective date of MCR 7.203(A)(1)(a). Assuming that *Midland Cogeneration Venture Ltd Partnership v Naftaly*, 489 Mich 83; 803 NW2d 674 (2011), applies or should be extended to the present context, we note it would only establish a right to judicial review of a relevant STC decision in the circuit court, not a further right to have an appeal of right in this Court. The discussion in *Richland Twp v State Tax Comm*, 210 Mich App 328, 334-335; 533 NW2d 369 (1995), quoting with approval OAG, 1981-1982, No 6007, pp 450, 457-458 (November 18, 1981), is inapplicable because it involves statutory authority to review final decisions of municipal boards of review in the context of property assessments and valuations having been transferred from the STC to the Tax Tribunal, not the specific statutory authority granted to the STC under MCL 207.565 with regard to revocation of industrial facilities tax exemption certificates.

It also is immaterial whether appellant has an appeal of right in *Owens-Brockway Glass Container Inc v State Tax Commission*, Docket No. 314190, because the circuit court did not act as an appellate court in that case.

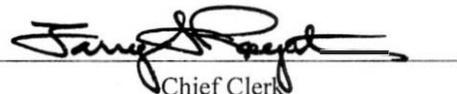
Finally, it also is immaterial that appellant raised new issues in its appeal to the circuit court in the present case because that would not change the fact that the circuit court acted on appeal from the STC in this case.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

MAR 19 2013

Date


Chief Clerk