

STATE OF MICHIGAN
COURT OF APPEALS

SOUTHGATE LINCOLN MERCURY,

Plaintiff-Appellant,

UNPUBLISHED
November 8, 2011

v

CITY OF SOUTHGATE and COUNTY OF
WAYNE,

No. 298337
Tax Tribunal
LC No. 00-342620

Defendants-Appellees.

Before: WHITBECK, P.J., and MURRAY and DONOFRIO, JJ.

PER CURIAM.

Plaintiff Southgate Lincoln Mercury (the Dealership) appeals as of right from the Michigan Tax Tribunal's order granting defendants City of Southgate and County of Wayne's (the taxing authorities) motion for summary disposition pursuant to MCR 2.116(C)(4) (lack of subject-matter jurisdiction) and dismissing the Dealership's petition for relief from 2004 through 2006 personal property tax assessments. We affirm.

I. FACTS

In 2007, pursuant to the procedures in MCL 211.154 for correction of incorrectly reported or omitted taxable property from tax rolls, the taxing authorities submitted Form L-4154 to the State Tax Commission to correct the taxable value of the Dealership's personal property for tax years 2004, 2005, and 2006. The Dealership apparently expected the taxing authorities' Form L-4154 to lower the taxable values of the property for these years, but the taxing authorities actually requested an increase in the taxable values.

The dispute arose from the parties' disagreement over the method for depreciating the value of the property following the parties' stipulation to the value for tax year 2003. Although the Dealership apparently intended to argue in the State Tax Commission that the taxable values for the relevant years should be decreased, the taxing authorities withdrew their petition with the State Tax Commission's approval before the State Tax Commission resolved the matter. The Dealership contends that the State Tax Commission's approval of the withdrawal denied it the opportunity to argue in favor of its own position regarding the taxable values.

The Dealership filed an appeal with the Michigan Tax tribunal challenging the State Tax Commission's "determination" approving withdrawal of the taxing authorities' petition. The

taxing authorities moved for summary disposition under MCR 2.116(C)(4), arguing that the Dealership failed to invoke the Tax Tribunal’s jurisdiction through a timely petition under MCL 205.735, and that the withdrawal of its petition in the State Tax Commission was not a decision that the Dealership could appeal under MCL 211.154. The Tax Tribunal agreed and granted the taxing authorities’ motion. The Dealership now appeals to this Court.

II. TAX TRIBUNAL’S JURISDICTION

A. STANDARD OF REVIEW

The Dealership points out that the taxing authorities chose the State Tax Commission as the forum to initiate an action to revise the Dealership’s personal property assessment and that the Dealership agreed to resolve the controversy in the State Tax Commission because the taxing authorities chose that forum. According to the Dealership, the State Tax Commission then pulled the carpet out from under it by allowing the taxing authorities to withdraw their petition before the Dealership could be heard. The Dealership argues that this was error and that the Tax Tribunal had jurisdiction under MCL 211.154(1) to review that error.

We review de novo the Tax Tribunal’s decision on a motion for summary disposition for lack of subject-matter jurisdiction.¹ The existence of jurisdiction is a question of law that this Court also reviews de novo.² This issue also involves the application and interpretation of statutes, which also is subject to de novo review.³ When analyzing a statute, this Court must give effect to the plain meaning of the statute’s text and apply unambiguous language as written.⁴

B. APPLICABLE LEGAL PRINCIPLES

The Tax Tribunal has exclusive and original jurisdiction over “[a] proceeding for direct review of a final decision, finding, ruling, determination, or order of an agency relating to assessment, valuation, rates, special assessments, allocation, or equalization under the property tax laws of this state.”⁵ MCL 205.735 governs Tax Tribunal proceedings commenced before January 1, 2007, and provides, in pertinent part:

(3) The jurisdiction of the tribunal in an assessment dispute is invoked by a party in interest, as petitioner, filing a written petition on or before June 30 of the tax year involved. . . . In all other matters, the jurisdiction of the tribunal is invoked by a party in interest, as petitioner, filing a written petition within 35 days after the final decision, ruling, determination, or order that the petitioner seeks to

¹ *Trostel, Ltd v Dep’t of Treasury*, 269 Mich App 433, 439; 713 NW2d 279 (2006).

² *Id.* at 440.

³ *Johnson v Detroit Edison Co*, 288 Mich App 688, 695; 795 NW2d 161 (2010).

⁴ *Ligons v Crittenton Hosp*, 490 Mich 61; 803 NW2d 271 (2011).

⁵ MCL 205.731(a).

review . . . An appeal of a contested tax bill shall be made within 60 days after mailing by the assessment district treasurer and the appeal is limited solely to correcting arithmetic errors or mistakes and is not a basis of appeal as to disputes of valuation of the property, the property's exempt status, or the property's equalized value resulting from equalization of its assessment by the county board of commissioners or the state tax commission.

MCL 205.735a governs proceedings commenced after December 31, 2006, and applies to proceedings regarding the 2007 tax year and each tax year after 2007.⁶

C. APPLYING THE LEGAL PRINCIPLES

The Dealership did not file a petition challenging the assessments for tax years 2004, 2005, and 2006 on or before June 30 of each of those years. The Dealership initiated its proceeding after December 31, 2006. But the Dealership cannot rely on the procedures provided by MCL 205.735a because its petition pertained to tax years before 2007. The Dealership's failure to invoke the Tax Tribunal's jurisdiction by filing petitions on or before June 30 in each of the relevant years deprives the Tax Tribunal of subject-matter jurisdiction over its valuation disputes.⁷

The Dealership contends that the taxing authorities' use of statutory procedures to correct incorrectly reported assessments in the State Tax Commission, and their subsequent withdrawal from the State Tax Commission proceedings, triggered the Tax Tribunal's jurisdiction under MCL 211.154, which provides, in pertinent part:

(1) If the state tax commission determines that property subject to the collection of taxes under this act . . . has been *incorrectly reported or omitted* for any previous year, but not to exceed the current assessment year and 2 years immediately preceding the date the incorrect reporting or omission was discovered and disclosed to the state tax commission, the state tax commission shall place the corrected assessment value for the appropriate years on the appropriate assessment roll. . . .

* * *

(7) A person *to whom property is assessed under this section* may appeal the state tax commission's order to the Michigan tax tribunal.^[8]

The Mich Admin Code, R 209.33, provides that the assessor or county equalization director must seek the property owner's concurrence in the requested correction. If the property owner

⁶ MCL 205.735a(4).

⁷ See *WA Foote Mem Hosp v City of Jackson*, 262 Mich App 333, 338; 686 NW2d 9 (2004).

⁸ Emphasis added.

disagrees, the State Tax Commission must give the owner notice of the meeting at which the State Tax Commission shall determine the assessment.

The Dealership has no right of appeal under MCL 211.154(7). MCL 211.154 provides a procedure for the correction of inaccurately reported or omitted taxable values. Subsection (7) provides a right of appeal to a property owner whose property was assessed pursuant to this procedure. The taxing authorities began the process of seeking a correction before the State Tax Commission, but it withdrew from the process, leaving unchanged the assessments as listed on the tax roll. Consequently, the Dealership's property was never assessed. And, thus, there is no determination to appeal.

The Dealership contends, however, that the Tax Tribunal has subject-matter jurisdiction because the taxing authorities initiated proceedings under MCL 211.154 and Rule 33, entitling the dealership to respond to the taxing authorities' request for correction of assessment and entitling it to a right of appeal to the Tax Tribunal. The Dealership also contends that the State Tax Commission's decision permitting the taxing authorities to withdraw their request for an assessment is itself a decision that opens the Tax Tribunal appeals process to the Dealership.⁹ The implied premise of the Dealership's argument is that once a taxing authority seeks correction of an assessment from the State Tax Commission under MCL 211.154, the State Tax Commission must bring the proceeding to completion, and that its failure to do so deprives the property owner of the opportunity to present its own claim for correction of the assessment with a right of appeal to the Tax Tribunal. But the plain language of the statute and the administrative rule does not support the Dealership's interpretation of MCL 211.154 and Rule 33. Nothing in either the statute or rule suggests that a local taxing authority reopens all issues concerning assessment, including those subject to the June 30 deadline in MCL 205.735, by initiating the process to correct inaccurate or omitted information on the tax rolls. We conclude that the Tax Tribunal properly granted summary disposition for the taxing authorities under MCR 2.116(C)(4).

We affirm.

/s/ William C. Whitbeck
/s/ Christopher M. Murray
/s/ Pat M. Donofrio

⁹ The Dealership cites MCL 211.154(4) in support of its argument that the State Tax Commission's "determination" is appealable. The Dealership's argument is based on an older version of the statute that was in effect before the 2000 amendment became effective. Subsection (4) of the prior version stated, "A person to whom property is assessed under this section may appeal a determination of the state tax commission to the Michigan tax tribunal." The current version of MCL 211.154 does not contain the term "determination."