

STATE OF MICHIGAN
COURT OF APPEALS

EAGLE GLEN GOLF COURSE,

Petitioner-Appellant,

v

SURREY TOWNSHIP,

Respondent-Appellee.

UNPUBLISHED

April 19, 2002

No. 224810

Tax Tribunal

LC No. 00-250680

Before: Gage, P.J., and Hoekstra and Meter, JJ.

PER CURIAM.

Petitioner appeals as of right a Tax Tribunal ruling that the state tax commission had jurisdiction to change the assessed values of petitioner's commercial real property for tax years 1994 through 1997.¹ We reverse and remand.

Petitioner argues that the tax commission did not have jurisdiction to consider respondent's petitions under MCL 211.154. We agree.

Our review of Tax Tribunal decisions is limited. *Michigan Milk Producers v Dep't of Treasury*, 242 Mich App 486, 490; 618 NW2d 917 (2000). Absent a claim of fraud, we may determine only whether the tribunal committed an error of law or adopted a wrong legal principle. *Id.* at 490; *Michigan Bell Telephone Co v Dep't of Treasury*, 229 Mich App 200, 206; 581 NW2d 770 (1998). "The tribunal's factual findings will not be disturbed as long as they are supported by competent, material, and substantial evidence on the whole record." *Michigan Milk Producers, supra* at 490-491.

Respondent petitioned the tax commission to correct assessments of petitioner's property under MCL 211.154, which states, in part:

(1) If the state tax commission determines that property liable to taxation . . . 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 of

¹ In addition to upholding the tax commission's changes for the 1994 through 1997 assessments, the Tax Tribunal also rendered its opinion with regard to the proper assessment value for 1998.

discovery and disclosure to the state tax commission of the incorrect reporting or omission, the state tax commission shall place the corrected assessment value for the appropriate years on the appropriate assessment roll. . . . [MCL 211.154(1) (emphasis added).]

Thus, the tax commission had jurisdiction to decide respondent's petitions if petitioner's property was either incorrectly reported or omitted.² Respondent claims that the property was incorrectly reported because the wrong value for the property was mistakenly placed on the assessment rolls for years 1994 through 1997.³

The primary goal of statutory interpretation is to ascertain and give effect to the Legislature's intent as gleaned from the statute's language. *Michigan Milk Producers, supra* at 491; *Michigan Bell, supra* at 207. "If reasonable minds can differ with respect to the meaning of a statute, judicial construction is appropriate." *Alma Piston Co v Dep't of Treasury*, 236 Mich App 365, 368; 600 NW2d 144 (1999).

The statutory language on its face is susceptible to more than one interpretation. Indeed, one could interpret the phrase "property liable to taxation . . . [that] has been incorrectly reported" as conferring jurisdiction only if the status of the property has been mischaracterized, e.g., if the property is reported as tax-exempt rather than taxable. Alternatively, one could interpret this language as including situations in which the taxing authority incorrectly reports the property's assessed or taxable value, perhaps because of incorrect assessment methods.

Because the language is ambiguous, judicial interpretation is appropriate. *Id.* This Court has interpreted MCL 211.154 to allow assessments to be corrected only if a property's status is misrepresented, such as when a taxpayer incorrectly claimed that the property was tax-exempt. Indeed, in *City of Detroit v Norman Allan & Co*, 107 Mich App 186; 309 NW2d 198 (1981), this Court considered a claim that an owner of personal⁴ property had misrepresented the value of the property. The Court stated:

We conclude that the Tax Tribunal incorrectly determined that the city properly proceeded in this matter under MCL 211.154; MSA 7.211. We believe that MCL 211.22; MSA 7.22 applies when the assessor petitions the tribunal to increase the value on the tax roll of personal property inadequately and improperly reported by a taxpayer but which is conceded to be taxable. MCL 211.154; MSA 7.211, on the other hand, applies when property has been incorrectly reported as exempt property but it thought to be . . . taxable property. The issue in such cases is the proper *status* of the property, whether it is

² Respondent does not argue on appeal that the alleged error in this case fit within the meaning of "property . . . omitted" under § 154.

³ Respondent acknowledges that the allegedly improper values resulted from assessing errors on respondent's part and not from incorrect information received from petitioner.

⁴ The fact that *Norman Allan* involved personal property and the instant case involves real property does not change the precedential effect of *Norman Allan* in the instant case.

amendable to taxation in the first place. [*Norman Allan, supra* at 191-192 (emphasis in original).]

Under this language from *Norman Allan*, MCL 211.154 did not confer jurisdiction on the state tax commission to correct an assessor's error in mistakenly undervaluing the property, because MCL 211.154 does not apply to property conceded to be taxable but alleged to be improperly assessed. Accordingly, the Tax Tribunal adopted a wrong legal principle in upholding the tax commission's actions, and we therefore reverse the Tax Tribunal's ruling. See *Michigan Milk Producers, supra* at 490.

We acknowledge that MCL 211.154 has been amended since the decision in *Norman Allan* to eliminate some language on which the *Norman Allan* Court relied in making its ruling. The *Norman Allen* Court stated:

[Our] conclusion is reinforced by language stated in the second sentence of § 154 that:

“If it appears to the commission that *no reason* in fact or in law exists which *would justify* an exemption of such property from taxation for those 2 years, it shall immediately place the total aggregate assessment value for the omitted years on the then current assessment roll * * * .” (Emphasis added.)

This language indicates that the section is concerned with property which previously had been incorrectly reported as property not amenable to taxation because the taxpayer claimed that the property was exempt. [*Norman Allan, supra* at 192.]

The statute no longer includes the language excerpted above. However, it is apparent to us that the *Norman Allan* Court did not rely *solely* on this excerpted language in reaching its decision. Indeed, it stated that its conclusion was merely “reinforced” by the language. Accordingly, we conclude that *Norman Allan* remains precedential with regard to the issue before us.⁵ The tax commission had no jurisdiction under § 154 to correct the alleged assessment mistake.⁶

⁵ We note that in *General Motors Corp v State Tax Comm*, 200 Mich App 117, 119; 504 NW2d 10 (1993), this Court discussed § 154 in the context of a plaintiff that had allegedly underreported its personal property. *General Motors* is not instructive here, however, because in that case the parties did not dispute the applicability in general of § 154 to their situation but instead disputed whether the taxing authority had sufficient factual support for its claim. See *id.* at 119. Accordingly, the Court did not rule on the issue presented to us in the instant case. Similarly, in *City of Detroit v Jones & Laughlin Steel Corp*, 77 Mich App 465, 476-477; 258 NW2d 521 (1977), the parties apparently conceded the applicability of § 154 and the Court therefore did not rule on the issue presented to us in the instant case.

⁶ We note that MCL 211.53b(2) allows a taxing authority to petition the board of review to correct clerical errors made with regard to assessment figures. At one point below, respondent argued that an incorrect value was placed on the property at issue because of a clerical error and petitioned the board of review for relief. The board of review denied respondent's request.

Petitioner additionally contends that if we determine that the tax commission erred by increasing the disputed tax assessments for years 1994 through 1997, then we must order the 1998 assessment value reduced in order to comply with MCL 211.27a(2), which states, in part:

[f]or taxes levied in 1995 and for each year after 1995, the taxable value of each parcel of property is the lesser of the following:

(a) The property's taxable value in the immediately preceding year minus any losses; multiplied by the lesser of 1.05 or the inflation rate, plus all additions. For taxes levied in 1995, the property's taxable value in the immediately preceding year is the property's state equalized valuation in 1994.

(b) The property's current state equalized valuation.

We agree that an adjustment to the 1998 value is necessary in order to comply with this statute. Accordingly, we remand for such an adjustment.

Reversed and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Hilda R. Gage
/s/ Joel P. Hoekstra
/s/ Patrick M. Meter