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Cost Management Services, Inc. v. City of Lakewood

Supreme Court of Washington, En Banc - October 10, 2013 - P.3d - 2013 WL 5570223

Natural gas purchasing agent brought action against city, seeking refund of taxes allegedly paid in error. The Superior Court entered partial summary judgment for purchasing agent and for city, granted mandamus relief requiring city to take action on refund claim, and, following a bench trial, entered judgment for purchasing agent. City appealed.

The Supreme Court of Washington held that:

- Exhaustion requirement was vitiated by city's inaction, but
- Statute of limitations for tax refund also applied to taxpayer's mandamus petition.

City's inaction in response to natural gas purchasing agent's utility tax refund request ended agent's obligation, under the doctrine of exhaustion of administrative remedies, to continue pursuing a remedy in that forum before filing a tax refund action in the Superior Court, even if city law established an appeal procedure for the refund request, and even though city sent agent a demand for payment of the utility tax attributed to a time period that was not covered by the refund request.

The three-year statute of limitations on natural gas purchasing agent's claim for utility tax refund barred agent's petition for a writ of mandamus to compel city to refund utility taxes paid outside the limitations period, since the mandamus petition in essence sought to use the administrative process to revive a claim otherwise barred by the statute of limitations, where agent filed a tax refund claim in the superior court before filing the mandamus petition.

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