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New York Telephone Co. v. Supervisor of Town of Hempstead

Supreme Court, Appellate Division, Second Department, New York - March 19, 2014 - N.Y.S.2d - 2014 N.Y. Slip Op. 01726

A phone company brought an action against a town supervisor, various municipal bodies and special districts within a county, challenging the imposition of special ad valorem taxes for garbage and refuse collection services on the company's mass property. The Supreme Court, Nassau County, found the taxes invalid. The defendants appealed. The Supreme Court, Appellate Division, affirmed. On remand, the Supreme Court, Nassau County, ordered the defendants to refund the improperly assessed taxes. The defendants appealed.

The Supreme Court, Appellate Division, held that the town and other municipal bodies and districts were liable for refunds of the improper tax payments.

Phone company's "mass property," on which a county sought to impose special ad valorem taxes for garbage and refuse collection services, refers to equipment such as lines, wires, cables, poles, supports, and enclosures for electrical conductors, which constitute a type of real property that is not amenable to human occupation and has been erected on public and private real property owned by persons or entities other than the utility.

A county administrative provision, in which the county assumed liability for tax refunds, did not relieve a town supervisor, various municipal bodies, and special districts within a county of their liability to refund tax payments in connection with special ad valorem taxes for garbage and refuse collection services that were found to be invalid, where the town played a role in determining what properties were subject to the taxes, and the town, and other municipal bodies and districts could seek indemnification from the county.