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Olds v. City of Goose Creek

Court of Appeals of South Carolina - November 16, 2016 - S.E.2d - 2016 WL 6776295

Taxpayer appealed decision of city council regarding computation of gross income under business license tax ordinance, and further asserted claims against city for violation of equal protection, violation of procedural due process, abuse of process, violations of state and federal constitutions, and violation of the South Carolina Freedom of Information Act, against city administrator and city finance director for conspiracy, and against city's department of public works for breach of contract.

The Circuit Court affirmed the city council's decision regarding the meaning of gross income under city ordinance, and granted city summary judgment on taxpayer's other claims. Taxpayer appealed.

The Court of Appeals held that:

- City's power to levy a business license tax under statute governing the powers conferred upon municipalities was not limited by the meaning of the term "gross income," as used in the remainder of the statute;
- Taxpayer's gross income for business license tax purposes constituted the total revenue of his business, before deducting expenditures for any purpose;
- On appeal to the Circuit Court from decision of city council regarding computation of gross income under business license tax ordinance, any evidence of animus that existed between taxpayer and city employees was irrelevant in determining the meaning of gross income under the ordinance;
- Affidavit of law professor offered by taxpayer on appeal to the Circuit Court was inadmissible because it constituted nothing more than a legal argument;
- City council's refusal to allow taxpayer to participate in appellate hearing with regard to appeal from business license tax assessment, and city's decision to withhold water service until taxpayer paid past due business license tax, did not prejudice defendant, as required to support due process claim; and
- No evidence existed to demonstrate that city singled out taxpayer for disparate and arbitrary tax treatment, and shut off the water supply to his properties in an attempt to force him to capitulate to city's position in a business license tax dispute.

City's power to levy a business license tax under statute governing the powers conferred upon municipalities was not limited by the meaning of the term "gross income," as used in the remainder of the statute. The only limitation on the broad grant of power was that the ordinance could not be inconsistent with the constitution or general laws of the state, and taxpayer challenging city's interpretation of "gross income" made no argument explaining how the ordinance was inconsistent with the constitution or general laws.

Notwithstanding city ordinance's later explanation that gross income for business license tax purposes shall conform to the gross income reported to the State Tax Commission and that gross income may be verified by the inspection of state and federal tax returns, taxpayer's gross income for business license tax purposes constituted the total revenue of his business, before deducting expenditures for any purpose, and thus, the term "gross income" applied to the total sale price of

any real property, rather than merely to the business’s gain.

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