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T-Mobile Northeast, LLC v. DeBellis

Court of Appeals of New York - December 13, 2018 - N.E.3d - 2018 WL 6533281 - 2018 N.Y. Slip Op. 08539

Cellular telephone service provider brought hybrid article 78 proceeding and declaratory judgment action against city and school district, seeking to compel city to determine and approve provider's petitions for property tax refunds for tax paid related to its equipment and antennas housed on rooftops of office buildings within its service area.

The Supreme Court, Westchester County, denied the petition and dismissed the proceeding. Provider appealed. The Supreme Court, Appellate Division, affirmed, and provider was granted leave to appeal.

The Court of Appeals held that provider's equipment was subject to taxation as real property.

Cellular telephone service provider's base transceiver stations and large rectangular antennas mounted to the exterior of buildings were "inclosures for electrical conductors" under the tax statute's definition of real property; the transceiver stations were essentially cabinets that housed cables and other electrical components and provided battery power, and the antennas were part of the transceiver stations.

Various cables in cellular telephone service provider's data transmission installations were "lines" and/or "wires" under the tax statute's definition of real property.

Components of cellular telephone service provider's data transmission installations were "used in connection with the transmission or switching of electromagnetic voice, video and data signals between different entities separated by air, street or other public domain," as required to be subject to taxation as real property; primary function of the equipment installations was to transmit cellular data.

Phrase "for electrical conductors" in statute defining telecommunications equipment taxable as real property modifies only "inclosures," and the provision encompasses, when not owned by a local utility, lines, wires, poles, and supports, regardless of whether they are related to the conduction of electricity, as well as "inclosures for electrical conductors," when those items are used in the transmission of data signals across public domain.

Central office equipment phaseout from taxation related to property located in the "central office" of a telephone company did not encompass cellular telephone service provider's large data transmission installations, which were mounted to the outside of buildings dispersed throughout the provider's service area.

"Station connections" exception to statutory definition of telecommunications subject to real property taxation relates to wiring physically connecting customer telephones to telephone poles and does not encompass cellular telephone service provider's large outdoor installations including

fiber optic cables and antennas.

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