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Alliance Well Service, Inc. v. Pratt County

Court of Appeals of Kansas - January 21, 2022 - P.3d - 2022 WL 186578

Taxpayers, which were oil and gas well servicers, filed petition for judicial review of determination by county board of tax appeals (BOTA) that mobile well service rigs constituted "oil and gas property" rather than as tax-exempt under "commercial and industrial machinery and equipment" (CIME) statute, contending that Kansas Department of Revenue Property Valuation Division's Kansas Oil and Gas Appraisal Guide violated state statutes, state constitutional requirement of "uniform and equal" taxation, and federal Equal Protection Clause.

The District Court affirmed. Taxpayers appealed.

The Court of Appeals held that:

- Mobile oil well service rigs constituted oil and gas property under constitutional tax-classification provision;
- Equipment that Guide classified as "oil and gas property" was not treated disparately from equipment used in oil and gas operations but not specifically listed in Guide;
- Mobile oil well service rigs were not similarly situated to wireline equipment;
- Property Valuation Division had reasonable basis for imposing higher tax on rigs used on profitable versus unprofitable wells.

Mobile oil well service rigs constituted "oil and gas property" under constitutional provision governing tax classifications, and, thus, were not tax-exempt as commercial and industrial machinery and equipment (CIME); statute generally requiring all oil and gas property to be treated as personal property applied to equipment used in production of oil and gas, indicating legislature intended equipment used to produce oil and gas to fall within constitutional classification for oil and gas property rather than more general CIME classification, and legislature knew how to exempt specific subclasses of property from taxation, as with railroad machinery and equipment, but was silent on oil and gas property, indicating it did not fall within CIME exemption.

Equipment that oil and gas property valuation guide issued by Kansas Department of Revenue's Property Valuation Division (PVD) classified as "oil and gas property" was not treated disparately from equipment that was used in oil and gas operations but that was not specifically listed in guide, and, thus, separate classification of mobile oil well service rigs from unlisted equipment did not violate equal protection principles applying to taxation, where equipment not specifically classified in guide was treated as "all other tangible personal property not otherwise specifically classified," pursuant to state constitutional provision governing property classifications for tax purposes, and both oil and gas property and otherwise-unclassified tangible personal property were taxed at same rate.

Mobile oil well service rigs, or workover rigs, were not similarly situated to wireline equipment, and, thus, Kansas Department of Revenue's classification of rigs as taxable "oil and gas property," rather than as tax-exempt commercial and industrial machinery and equipment (CIME), which was

category that included wireline equipment, did not constitute disparate treatment of similarly-situated property in violation of equal protection principles applying to taxation; rigs were used in operations, including in completing, maintaining, restoring, and stimulating production of wells, whereas wireline equipment, which consisted of data logging tools used to test qualities of subsurface rock, was purely diagnostic and not used in production of oil and gas.

In promulgating Kansas Oil and Gas Appraisal Guide, Kansas Department of Revenue's Property Valuation Division had reasonable basis for allegedly imposing higher tax on oil and gas well service rigs used on profitable wells than that imposed on wells that were temporarily unprofitable, and, thus, higher tax on taxpayers' rigs did not violate equal protection principles applicable to taxation; as reflected in statute requiring oil and gas property to be taxed based on fair market value, which legislature declared would be primarily based on actual value of oil and gas production, policy of taxing actual production of equipment on leasehold could better serve oil and gas industry, as compared to taxing mere existence of equipment.

The Kansas Department of Revenue's Property Valuation Division's Kansas Oil and Gas Appraisal Guide classification of mobile service rigs as oil and gas property, within the tax classification scheme set forth by the Kansas Constitution, does not violate the Equal Protection Clause under the Fourteenth Amendment to the United States Constitution.

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