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TAX - NEW JERSEY

Branchburg Hospitality LLC v. Township of Branchburg

Tax Court of New Jersey - February 25, 2022 - N.J.Tax - 2022 WL 590735

Following Tax Court's dismissal of taxpayer's direct appeal due to taxpayer's withdrawal of claim and township's withdrawal of counterclaim, taxpayer sought judicial review of decision of County Board of Taxation dismissing taxpayer's challenge to township's property tax assessment relating to hotel that taxpayer owned and operated.

Township moved to dismiss for lack of subject matter jurisdiction, for failure to respond to a request for income and expense information, and for failure to pay taxes.

The Tax Court held that:

- Judgment issued by Tax Court in prior docket dismissing direct appeal did not bar taxpayer's filing of a petition of appeal at County Board for the same tax year, or subsequent appeal of County Board's decision to Tax Court;
- Fact that taxpayer first filed direct appeal challenging property tax assessment in the Tax Court did not deprive Board of jurisdiction; and
- Taxpayer failed to provide a sufficient factual basis to support finding that tax payment requirement should be relaxed in the interests of justice.

Judgment issued by Tax Court in prior docket dismissing taxpayer's direct appeal relating to township's property tax assessment and dismissing township's counterclaim due to their voluntary withdrawals did not bar taxpayer's filing of a petition of appeal of the tax assessment at County Board of Taxation for the same tax year, or subsequent appeal of the County Board's decision to the Tax Court.

Fact that taxpayer first filed direct appeal challenging property tax assessment in the Tax Court did not deprive County Board of Taxation of jurisdiction to render judgment upholding township's assessment, such that Tax Court had subject matter jurisdiction to review Board's decision on appeal; no simultaneous filings were involved, there were serial appeals, taxpayer filed first in the Tax Court in the direct appeal and then withdrew that appeal prior to the filing before the County Board, township voluntarily withdrew its counterclaim in the prior docket before taxpayer filed before County Board, there was no appeal pending by taxpayer or township when taxpayer timely filed its appeal at the County Board.

Taxpayer failed to provide a sufficient factual basis to support finding that tax payment requirement should be relaxed in the interests of justice, thus warranting dismissal for failure to pay taxes of complaint concerning township's property tax assessment relating to taxpayer's hotel, notwithstanding taxpayer's reference to reduction in income over what was projected to have been generated due to COVID-19 pandemic, leading to ultimate closure of hotel, all of which was not self-imposed by taxpayer; taxpayer did not produce any indication of any actions taken to ameliorate the negative effects on its business, or demonstrating what, if any, steps taxpayer took to reduce costs, obtain grants and loans, or otherwise attempt to deal with the crisis, and taxpayer's profit and loss

statement, without any explanatory attachment, provided little factual support for request.

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