

STATE OF MICHIGAN
COURT OF APPEALS

AEG MICTRON, INC.,

Petitioner-Appellant,

v

CITY OF TROY,

Respondent-Appellee.

UNPUBLISHED

July 11, 1997

No. 195012

MTT

LC No. 192743

Before: Smolenski, P.J., and Michael J. Kelly and Gribbs, JJ.

PER CURIAM.

Petitioner appeals as of right a Michigan Tax Tribunal's opinion and judgment that adopted respondent's personal property valuation methodology and revised respondent's 1993, 1994 and 1995 personal property tax assessments. We affirm.

Petitioner first argues that the tax tribunal improperly upheld assessments that were made utilizing the purchase amounts of the personal property as reported by petitioner and multiplying those amounts by the "in-use" multiplier set forth in the State Tax Commission (STC) manual. Petitioner contends that the manual prescribes a non-uniform, unconstitutional system of taxing personal property; that the use of the "in-use" multiplier does not result in a determination of true cash value for the property; and that the calculation of true cash value using the purchase price of the property plus freight, installation and sales tax is improper. We find that petitioner's contentions have no merit.

The Michigan Constitution calls for the uniform taxation of property. Const 1963, art 9, § 3. The STC system for mass appraisals of personal property results in the uniform taxation of personal property. The STC manual sets forth the guidelines for assessing personal property and respondent was required to utilize the manual in preparing petitioner's assessment.¹ MCL 211.10e; MSA 7.10(5). Under the STC manual, all personal property that is idle within the state is treated the same. True cash value of that property is calculated utilizing the "idle" multiplier. All personal property that is obsolete or surplus within the state is treated the same. True cash value of that property is calculated utilizing the "economic residual" multiplier, which is the lowest multiplier and gives the lowest value to the property.

All property that is not idle, obsolete or surplus is treated the same. True cash value of property that is not idle, obsolete, or surplus is calculated by using an “in-use” multiplier.

Petitioner argues that the STC method of assessing personal property is improper because it taxes property based upon the uses of the property and not upon the true cash value of the property. Petitioner offered no evidence that the STC multipliers do not calculate true cash values for personal property that are close to the values that such property would bring on the open market. Petitioner simply makes a broad claim that under the law the use of the property may not be considered when determining true cash value. We reject petitioner’s claim. Rather as stated in petitioner’s cited case of *Safran Printing Co v Detroit*, 88 Mich App 376, 382; 276 NW2d 602 (1979), “[n]ormally, existing use may be indicative of the use to which a potential buyer would put the property and is, therefore, relevant to the fair market value of the property.” See also MCL 211.27; MSA 7.27; *Meadowlanes Ltd Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 484; 473 NW2d 636 (1991). However, where the use of the property bears no relationship to what a likely buyer would pay for the property, reliance by the tribunal on the existing use in determining the property’s valuation is error. *Safran, supra*. Here, there is no evidence that the “in-use” multiplier inflates the value of personal property above what it would receive on the open market.

Petitioner claims that the only multiplier that is truly indicative of the fair market value of personal property, even usable or “in-use” personal property, is the economic residual multiplier and not the “in-use” multiplier. Petitioner bases this conclusion on its analogy of the STC system with that set forth by the American Society of Appraisers (ASA). Petitioner contends that the economic residual multiplier is equivalent to the ASA “fair market removed” multiplier and that the ASA “fair market removed” multiplier is used to calculate true cash value of all personal property, whether it is idle, obsolete, or in-use. Petitioner offered no evidence from which this Court or the tribunal could make a determination that the “fair market removed” multiplier was equivalent to the “economic residual” multiplier. The “economic residual” multiplier is used by the STC only where obsolete or surplus property is being valued, which is not the instant case. Petitioner offered no proof that a more appropriate true cash value would have been calculated had respondent utilized the “economic residual” multiplier.

In addition, petitioner argues that the “in-use” multiplier takes into consideration economic benefits that a business is obtaining from using property and taxes those along with the true cash value of the property itself. There was no evidence presented that the STC “in-use” category taxes anything but the value of the property itself. This Court notes that even petitioner’s experts were unsure as to how the “in-use” multipliers were arrived at by the STC. Because petitioner did not offer any evidence that the “in-use” multiplier did not accurately calculate the true cash value of its property and because petitioner did not offer any evidence that applying the economic residual multiplier to all personal property would result in values that were closer to true cash values, the tribunal correctly held that petitioner had not proven that the economic residual multiplier should have been used.

Petitioner also argues that installation, freight, and sales tax are improperly considered when determining true cash value under the STC system for appraising property. Petitioner cites to no authority for its contention. This Court will not search for authority to support a party’s position.

Samonek v Norvell Twp, 208 Mich App 80, 84; 527 NW2d 24 (1994). In any event, we

find no error. True cash value is synonymous with fair market value. *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 353; 483 NW2d 416 (1992). Here, the tribunal stated that sales tax, freight and installation “are properly considered in true cash value to the extent they are reflected in market value.” The tribunal’s approach complies with its duty to apply its expertise to the facts of a case and utilize an approach that provides the most accurate valuation under the circumstances. *Id.* We generally defer to the tax tribunal’s interpretation of statutes that it is delegated to administer. *Thrifty Royal Oak, Inc v City of Royal Oak*, 208 Mich App 707, 711; 528 NW2d 205 (1995).

Petitioner failed to prove that the wrong multiplier was used or that the other costs should not be included in determining true cash value. The tribunal correctly held that the amounts produced by petitioner in its personal property statement were calculated using the proper, “in-use” multiplier and that the amount of the assessment was accurate. Based on the whole record, the findings of the tribunal were supported by competent, material and substantial evidence. *Id.* at 352. Moreover, there were no errors by the tribunal in applying the law and this Court has no basis for finding that the STC manual “in-use” multiplier is unconstitutional or that the STC system for mass appraisals of property is unconstitutional. *Id.*

Next, petitioner argues that the tribunal erred in finding that it was the “owner” of certain furniture that was in petitioner’s possession pursuant to the terms of a real property lease. See MCL 211.13; MSA 7.13. Petitioner’s attempt to distinguish the decisions relied on by the tribunal in making its determination is unpersuasive. In ruling that it must view the substance of the lease, not merely its form, the tribunal did not commit an error of law or adopt a wrong principle. See, e.g., *Nickell v Lambrecht*, 29 Mich App 191; 185 NW2d 155 (1970). The tribunal’s finding that petitioner was the owner of the property was supported by competent, material and substantial evidence. *Jones, supra.* Accordingly, we accept the tribunal’s finding. *Id.*

Finally, petitioner argues that it offered evidence that thirty percent of the furniture in the leased premises was idle, and that, therefore, the tribunal erred in failing to consider the application of the STC idle multipliers to calculate the true cash value for thirty percent of the furniture. Again, given the limited nature of our review, we disagree. *Id.* Specifically, the tribunal’s decision was supported by competent, material and substantial evidence, and not affected by an error of law.

Affirmed.

/s/ Michael R. Smolenski

/s/ Michael J. Kelly

/s/ Roman S. Gribbs

¹ See Chapter 15 of the State Tax Commission manual.