

STATE OF MICHIGAN
COURT OF APPEALS

GOODYEAR TIRE & RUBBER COMPANY,

Petitioner-Appellant,

v

CITY OF ST CLAIR SHORES,

Respondent-Appellee.

UNPUBLISHED

November 19, 2002

No. 234856

Tax Tribunal

LC No. 00-270141

Before: Griffin, P.J., and Gage and Meter, JJ.

MEMORANDUM.

Petitioner appeals as of right from a tax tribunal order dismissing its petition challenging its property tax assessment for 1999. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

As part of the prehearing procedure, the parties were directed to submit a valuation disclosure. They failed to do so because they had agreed to settle the case. On the same day the stipulation for entry of a consent judgment was sent to the tribunal, the tribunal entered a default for failure to file the valuation disclosure. The tribunal later determined that a judgment could not be entered on the stipulation as submitted¹ and ordered the parties to file a motion to set aside the default previously entered. They failed to do so and the tribunal dismissed the petition.

Our review of a decision of the Tax Tribunal is typically limited to whether the decision was authorized by law and whether the tribunal's findings were supported by competent, material, and substantial evidence on the whole record. Although the Tax Tribunal has the authority to dismiss a petition for failure to comply with its rules or orders, the tribunal's actions in that regard are reviewed for an abuse of discretion. An abuse of discretion exists where the result is so palpably and grossly violative of fact and logic that it indicates a perversity of will, a defiance of judgment, or the exercise of passion or bias. [*Professional Plaza, LLC v Detroit*, __ Mich App __; __ NW2d __ (2002).]

¹ We find no error in the tribunal's rejection of the stipulation because it included a proposed amendment of the petition. 1996 AACCS, R 205.1225(2), now 1999 AC, R 205.1225(2), permits amendment of the pleadings as provided by the act or by leave of the tribunal and pursuant to MCL 205.737(4), a motion (and appropriate filing fee) were required to amend the petition.

While we are at a loss to understand petitioner's failure to respond to the order directing it to cure the default or take other action so as to avoid dismissal, the tribunal's decision to impose "the harshest sanction available" for failure to file a valuation disclosure that was no longer required and thus deprive petitioner of relief from the 1999 tax assessment to which respondent had consented constituted an abuse of discretion. *Stevens v Bangor Twp*, 150 Mich App 756, 762; 389 NW2d 176 (1986).

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Richard Allen Griffin

/s/ Hilda R. Gage

/s/ Patrick M. Meter