

NOT DESIGNATED  
FOR PUBLICATION

COURT OF APPEAL, FIRST CIRCUIT  
STATE OF LOUISIANA

RE: Docket Number 2015-CA-0010

Louisiana Machinery Co., LLC

-- Versus --

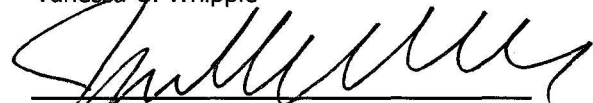
Cynthia Bridges, Secretary, Louisiana Department of  
Revenue

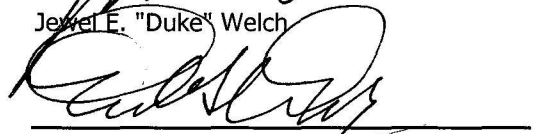
19th Judicial District Court  
Case #: 628137  
East Baton Rouge Parish

On Application for Rehearing filed on 09/29/2015 by T.A. "Tim" Barfield, Jr., etc.

Rehearing granted. see opinion rendered on rehearing issue code.

  
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Vanessa G. Whipple

  
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Jewel E. "Duke" Welch

  
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Ernest G. Drake

Filed DEC 10 2015

  
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Christine L. Crow, Clerk

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2015 CA 0010

LOUISIANA MACHINERY CO., LLC

VERSUS

CYNTHIA BRIDGES, SECRETARY,  
LOUISIANA DEPARTMENT OF REVENUE

Judgment Rendered: DEC 10 2015

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On Appeal from the  
19th Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
No. C628137, Div. D

The Honorable Janice Clark, Judge Presiding

\* \* \* \* \*

On Rehearing

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\* \* \* \* \*

BEFORE: WHIPPLE, C.J., WELCH, AND DRAKE, JJ.

**DRAKE, J.**

The defendant, Tim Barfield, Jr., as successor to Cynthia Bridges, Secretary, Louisiana Department of Revenue (Department), filed an application for rehearing following this court's affirming a judgment of the district court, which affirmed the decision of the Louisiana Board of Tax Appeals (Board) permitting an inventory tax credit in the full amount of \$2,688,673.00 to plaintiff, Louisiana Machinery Company, LLC (LMC). The application is granted solely for the limited purpose of addressing the jurisdiction of the district court. For the following reasons, we vacate the judgment of the district court and affirm the judgment of the Board, for the reasons set forth in our original opinion.

**JURISDICTION OF THE DISTRICT COURT**

It is the duty of the court to examine subject matter jurisdiction *sua sponte*, even when the issue is not raised by the litigants. *Whittenberg v. Whittenberg*, 1997-1424 (La. App. 1 Cir. 4/8/98), 710 So. 2d 1157, 1158. In our original opinion we noted that the petition for judicial review was filed by the Department with the district court on February 6, 2014, prior to an amendment to La. R.S. 47:1435.

Subject matter jurisdiction is the legal power and authority of a tribunal to adjudicate a particular matter involving the legal relations of the parties and to grant the relief to which the parties are entitled. La. C.C.P. arts. 1 and 2. Jurisdiction over the subject matter cannot be conferred by consent of the parties. La. C.C.P. art. 3. A judgment rendered by a court without subject matter jurisdiction is void. *Id.* The Louisiana Constitution vests the district courts with original jurisdiction over all civil and criminal matters, except as otherwise authorized by the constitution, and with appellate jurisdiction as provided by law. La. Const. art. V, § 16(A) and (B).

As noted above, on February 6, 2014, the Department appealed the decision of the Board to the district court. At that time, La. R.S. 47:1434 and 47:1435 provided that judicial review of decisions of the Board was vested with the district court. However, pursuant to 2014 La. Acts, No. 198, §1, eff. July 1, 2014, (as well as 2015 La. Acts, No. 210), jurisdiction for judicial review of decisions of the Board is now vested solely with the appellate courts. Herein, the district court did not hear this matter until October 20, 2014, and did not render and sign a judgment until November 5, 2014, both of which occurred after the effective date of the legislative changes. Therefore, between the time that the appeal was properly and timely filed with the district court and the time that the district court heard the matter and rendered judgment, the district court lost its jurisdiction over such appeals.<sup>1</sup> Accordingly, the judgment of the district court must be vacated. *See* La. C.C.P. art. 3.

Under La. R.S. 47:1434 (both the former and current provisions), the Department clearly has a vested right to seek judicial review of the decision of the Board. While the Department timely and properly exercised that right in accordance with the law in effect at the time, the forum in which the Department was entitled to exercise that right changed during the pendency of the proceeding for judicial review. Therefore, in accordance with the change in jurisdiction from the district court to this court, this matter is properly before us for judicial review of the decision of the Board and we deem the Department's order of appeal as

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<sup>1</sup> Because this court has previously stated that laws which determine jurisdiction are procedural, we find the amendments to La. R.S. 47:1434 and 47:1435 are procedural in nature and must be afforded retroactive application. *See Ransome v. Ransome*, 99-1291 (La. App. 1 Cir. 1/21/00), 791 So.2d 120, 122 n.2. Additionally, jurisdictional provisions apply from the date of their promulgation, to all lawsuits, even those which bear upon facts of a prior date and to pending lawsuits. *Id.*; *American Waste and Pollution Control Company v. State, Department of Environmental Quality*, 597 So.2d 1125, 1128 (La. App. 1 Cir.), *writs denied*, 604 So.2d 1309, 1318 (1992). The amended statutes herein vest exclusive subject matter jurisdiction for judicial review of decisions of the Board with this court and divests the district court of such jurisdiction. Applied retroactively, these amended statutes do not divest either party of a vested right. Both parties may still appeal any decision of the Board; the amended statutes merely change the forum in which the party may exercise its existing right of judicial review.

having transferred the matter to this court. See La. C.C.P. art. 2162, 2164, *Matter of Angus Chemical*, 94-1148 (La. App. 1 Cir. 6/26/96), 679 So. 2d 454, 458-459; see generally *Tillison v. Tillison*, 129 So. 2d 522, 523 (La. App. 1 Cir. 1961); *Farina v. Pravata*, 131 So. 2d 909, 910; *Kemra v. Louisiana Power & Light Company*, 132 So. 2d 688, 689 (wherein appeals were transferred to this court because of the change in jurisdiction that went into effect after appeal was taken).

Therefore, we vacate the judgment of the district court and affirm the January 7, 2014 decision of the Board of Tax Appeals for the reasons set forth in our original opinion.

The application for rehearing is denied in all other respects.