Supreme Court of Louisiana

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FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the **29th day of June, 2022** are as follows:

BY Hughes, J.:

2021-C-01814 — *NUCOR STEEL LOUISIANA, LLC VS. ST. JAMES PARISH SCHOOL BOARD AND NESHELLE NOGESS IN HER CAPACITY AS TAX ADMINISTRATOR OF ST. JAMES PARISH TAX AGENCY (Parish of St. James)*

REVERSED. SEE OPINION.

SUPREME COURT OF LOUISIANA

No. 2021-C-01814

NUCOR STEEL LOUISIANA, LLC

VERSUS

ST. JAMES PARISH SCHOOL BOARD AND NESHELLE NOGESS IN HER CAPACITY AS TAX ADMINISTRATOR OF ST. JAMES PARISH TAX AGENCY

On Writ of Certiorari to the Court of Appeal, Fifth Circuit, Parish of St. James

HUGHES, J.

On January 26, 2016, Nucor Steel Louisiana, LLC submitted a tax refund claim to St. James Parish School Board and Neshelle Nogess, as Tax Administrator of St. James Parish Tax Agency (collectively the "Collector"). The claim alleged an overpayment of sales and use tax paid pursuant to a full contract price that was rebated. By letter dated April 13, 2016, the Collector acknowledged receipt of the refund claim and requested additional documentation.[1] Nucor then submitted additional documents, and the Collector engaged in a two-year investigation of the claim.

On February 23, 2018, the Collector issued a written denial of Nucor's refund claim. In that letter, the Collector stated:

> Should Nucor disagree with or dispute the Collector's final determination, pursuant to La. R.S. 47:337.81, Nucor has ninety (90) calendar days from the date of the certified mailing of this notice of refund claim determination letter to appeal to the Board of Tax Appeals ("BTA").
>
> Under La. R.S. 47:337.81(A) Nucor may within thirty (30) days of this notice request a hearing with the Collector for redetermination. Any

[1] The Collector refunded a portion of the taxes paid, which is not relevant to the instant writ application.

> request for additional consideration, reconsideration, redetermination, or other action by the Collector with respect to this refund claim determination letter shall not operate to extend the ninety (90) day period within which an appeal to the BTA must be taken by Nucor.

Pursuant to Louisiana Revised Statutes 47:337.81, Nucor requested a redetermination hearing with the Collector. Following the redetermination hearing, the Collector sent Nucor another letter denying the refund claim. Then, on May 24, 2018, just over two years after the Collector received the refund claim, Nucor appealed the denial to the Board of Tax Appeal ("BTA"). The Collector responded by filing peremptory exceptions of prescription, peremption, and res judicata, asserting that Nucor failed to timely appeal under La. R.S. 47:337.81(A)(2).

The BTA granted the Collector's exceptions, finding Paragraph (A)(2) provides "two alternative prescriptive periods for a taxpayer to appeal refund denial." First, if the Collector "fails to render a decision on a refund claim" within one year of the claim being filed, the taxpayer can file a "failed to act" appeal within 180 days of that one year anniversary. Alternatively, if the refund claim is denied within one year of the claim being filed, the taxpayer can appeal within 90 days of the refund denial. The BTA rejected Nucor's assertion that "failed to act" means an act other than granting or denying the refund claim. Because the Collector failed to render a decision within one year of Nucor's refund claim being filed, Nucor had 180 days, or until July 26, 2017, to appeal. Thus, the BTA found Nucor's May 24, 2018 appeal untimely.

The BTA also found no merit in Nucor's estoppel argument. Nucor argued it relied on language in the Collector's February 15, 2018 denial letter that it had "ninety (90) calendar days" to appeal. The BTA focused on the first element of detrimental reliance against a government agency, that is, whether unequivocal advice was given from an unusually authoritative source. <u>See</u> **Showboat Star Partnership v. Slaughter**, 00-1227 (La. 4/3/01), 789 So.2d 554. The BTA found

the only time the Collector mentioned Nucor's appeal rights was in the refund denial letter "long after prescription had already accrued." Prior to the appeal delays expiring, the Collector had only advised Nucor of receipt of its refund claim, which should have been notice to Nucor that time was running for a "failed to act" appeal. The BTA found, "[t]he Collector never instructed Nucor to delay its appeal, never advised Nucor its appeal rights were reserved, and never agreed to waive the applicable prescriptive statute." Thus, the Collector did nothing to "lull Nucor into a false sense of security concerning it exercising its appeal rights during the 180 day window."

Nucor appealed. The court of appeal reversed, finding "failed to act" is not limited to failing to render a decision. Rather, it means failing to do *anything* with regard to the refund claim. Because the Collector was investigating the claim during the one-year following the filing of the refund claim, it did not fail to act. The court found the 180-day appeal period did not apply. Rather, the 90-day period following denial of a claim governed, and Nucor's appeal within 90 days of that decision was timely.

The court of appeal also found the Collector's statement to Nucor that it had "ninety (90) calendar days" to appeal amounted to a representation that Nucor relied upon to its detriment. Using the standard set forth in **Suire v. Lafayette City-Parish Consolidated Government**, 04-1459 (La. 4/12/05), 907 So.2d 37, which only requires a reasonable reliance on a representation, the court found the Collector estopped from arguing prescription.

We granted the Collector's writ application to determine the proper interpretation of the appeal periods in La. R.S. 47:337.81 and to determine the proper standard for evaluating the estoppel and detrimental reliance claims.

Revised Statute 47:337.81(A)(2)[2] provides:

> (2) The taxpayer may appeal a denial of a claim for refund to the Board of Tax Appeals, as provided by law. No appeal may be filed before the expiration of one year from the date of filing such claim unless the collector renders a decision thereon within that time, nor after the expiration of ninety days from the date of mailing by certified or registered mail by the collector to the taxpayer of a notice of the disallowance of the part of the claim to which the appeal relates, nor after the expiration of one hundred eighty days from the end of the expiration of the one year in which the collector failed to act.

According to the Paragraph (A)(2), the 180-day appeal period applies if the collector failed to "act." The only "act" required of the collector in that paragraph is to "render a decision" and "mail a notice of disallowance." Applying a plain reading of the statute, we conclude, as did the BTA, that "failed to act" refers to rendering and providing notice of a decision on the refund claim.

Applying our interpretation of Paragraph (A)(2), a taxpayer must file an appeal within 90 days of denial of his refund claim ("from the mailing of a notice of . . . disallowance"), if the denial occurs within one year of the claim being filed, *or* within 180 days after the one year anniversary of the claim being filed, if a decision is not rendered by the collector within that one year ("one hundred eighty days from the expiration of the one year in which the collector failed to act"). These deadlines give the collector one year to decide a refund request. Depending upon whether the refund claim is denied within one year or not, the taxpayer has either 90 or 180 days to appeal for a BTA decision. That allows a timely resolution of the taxpayer's refund claim and prevents such claims from being indefinitely prolonged by intermittent "acts" by the collector. A taxpayer who ignores these deadlines foregoes an appeal of a collector's decision. On the other hand, a collector who prolongs the refund decision beyond a year may have the refund claim decided by the BTA and without a completed investigation by the collector.

[2] Revised Statute 47:337.81(A)(1) addresses itself to the timeliness of a "hearing" request by the taxpayer, which is not at issue herein, as Nucor sought an "appeal."

The court of appeal's interpretation of Paragraph (A)(2), which allows *any* action by the collector to extend the appeal delays, could indefinitely extend a refund claim, prevent timely resolution of the claim, and render the 180-day delay meaningless. Applying that interpretation would allow acts related to the refund claim to be performed upon the whim of the collector, thus negating the 180-day time period. Our interpretation gives meaning to the 180-day appeal period and ensures the finality of these claims. In interpreting statutes, it is presumed that every word, sentence, or provision was intended to serve some useful purpose, that some effect is to be given to each such provision, and that no unnecessary words or provisions were employed. **City of New Orleans v. Louisiana Assessors' Retirement and Relief Fund**, 05-2548, p. 17 (La. 10/1/07), 986 So.2d 1, 20. To give meaning to both time periods, the statute must be read as providing alternative appeal periods, one based on a refund denial and the other based on a collector's failure to render a decision, whichever occurs first.

"When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature." La. C.C. art. 9. We find La. R.S. 47:337.81 clear and unambiguous and, rather than leading to absurd consequences, it promotes predictability and finality for tax refund appeals. Because the Collector did not render a decision within one year of Nucor filing its refund claim, the 180-day appeal period commenced on the one-year anniversary of that filing. Nucor's appeal to the BTA occurred approximately ten months later, rendering it untimely.

Nucor also contends it detrimentally relied on the statement in the Collector's refund denial letter that it had 90 days to appeal, thus, the Collector should be estopped from asserting prescription. The BTA correctly applied the analysis in

Showboat Star Partnership v. Slaughter, supra,[3] which is specific to governmental entities, rather than the elements enunciated in **Suire v. Lafayette City-Parish Consolidated Government**, supra,[4] which apply between private parties. We find Nucor failed to prove the Collector gave unequivocal advice *prior* to expiration of the "failed to act" appeal delay. Because the appeal delay had already expired when the alleged advice was given, Nucor could not have relied upon that advice to its detriment.

For these reasons, we reverse the court of appeal and reinstate the trial court's ruling on the exceptions.

REVERSED.

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[3] In **Showboat Star Partnership v. Slaughter**, the court used the following factors to determine a detrimental reliance claim against a governmental agency: (1) unequivocal advice from an unusually authoritative source; (2) reasonable reliance on that advice; (3) reliance on that advice resulted in extreme harm; and (4) gross injustice will occur in the absence of judicial estoppel. 789 So.2d at 562.

[4] In **Suire**, which involved private parties, the court used a three-factor test: (1) a representation by conduct or word; (2) justifiable reliance; and (3) a change in position to one's detriment because of the reliance. 907 So.2d at 59.