

STATE OF MICHIGAN
COURT OF APPEALS

APTCO AUTO AUCTION, INC.,

UNPUBLISHED

July 7, 1998

Petitioner-Appellant,

v

No. 193753

CITY OF TAYLOR and
COUNTY OF WAYNE,

Tax Tribunal

LC No. 00163076

Respondents-Appellees.

Before: Griffin, P.J., and Gribbs and Talbot, JJ.

PER CURIAM.

Petitioner, Aptco Auto Auction, appeals as of right from a decision of the Michigan Tax Tribunal, which found that respondent's contentions of true cash value were supported by a competent appraisal. We affirm.

On appeal, petitioner claims that the valuation of its personal property adopted by the tax tribunal was erroneous because it used improper valuation methods. We disagree. Absent fraud, we review a Tax Tribunal decision to determine whether the tribunal made an error of law or adopted a wrong legal principle. Const 1963, art 6, § 28; *Meadowbrook v Auburn Hills*, 226 Mich App 594, 596; 574 NW2d 924 (1997).

Petitioner's first claim of error is that the assessments impermissibly focused on the use of the property. In support of its argument, petitioner cites *Safran Printing Co v Detroit*, 88 Mich App 376, 382-383; 276 NW2d 602 (1979), for the proposition that the assessments were in error because they constituted an impermissible use tax.

Petitioner's reliance on *Safran, supra*, is misplaced. *Safran* examined two parcels of real property which were used as printing plants. There was no dispute that the parcels were obsolete, inefficient, and could not be sold as printing plants. Therefore, this Court held that it was error to attribute a significant amount of the value to its existing use when its current use bore no relationship to what a buyer would pay for the property. *Safran, supra* at 382-383. However, the present case differs from *Safran* because the assessments were of petitioner's personal property, not real property,

and because no testimony was offered during the hearing regarding the obsolescence or inefficiency of petitioner's personal property. Therefore, the holding in *Safran* is inapplicable to the present case.

Petitioner also argues that the assessment of its personal property was in error because the assessment improperly included such things as installation costs, and therefore, the assessment did not arrive at the true cash value of the personal property. We disagree. This argument is contrary to the clear precedent of this Court. In *Lionel Trains Inc v Chesterfield Twp*, 224 Mich App 350, 354-355; 568 NW2d 685 (1997), this Court permitted installation costs to be included in the valuation of the true cash value of personal property.

Petitioner's final argument is that the use of State Tax Commission multipliers is unconstitutional because the multipliers are completely dependent upon the use of the property and not the true cash value of the property, which is a violation of the conformity requirement of the Michigan Constitution. The argument before this Court in *Lionel Trains*, *supra* at 352, was virtually identical to the argument raised by petitioner in the present case. In *Lionel Trains*, the petitioner's argument was rejected by this Court because the petitioner failed to offer "evidence that the [State Tax Commission] multipliers [did] not calculate true cash values for personal property that are close to the values that such property would bring on the open market." Petitioner's argument in the present case must be rejected for the same reason. Petitioner did not produce any evidence during the hearing which showed that the multipliers failed to calculate true cash values for petitioner's personal property. Petitioner offered one witness, Curtis Kaye, to testify as to the value of petitioner's personal property. Kaye conducted an appraisal of petitioner's personal property which was admitted into evidence by the Tax Tribunal. However, Kaye was not admitted as an expert witness and serious doubts about the reliability of his appraisal were raised. We hold that petitioner did not establish that the use of State Tax Commission multipliers failed to establish the true cash value of petitioner's personal property. Therefore, petitioner's argument that the multipliers violated the uniformity requirement must fail.

Affirmed.

/s/ Richard Allen Griffin
/s/ Roman S. Gribbs
/s/ Michael J. Talbot