

STATE OF MICHIGAN  
COURT OF APPEALS

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GENERAL MOTORS CORPORATION,

Petitioner-Appellant,

v

DEPARTMENT OF TREASURY,

Respondent-Appellee.

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UNPUBLISHED

June 8, 2004

No. 248320

Tax Tribunal

LC No. 00-285727

Before: Hoekstra, P.J., and O’Connell and Donofrio, JJ.

PER CURIAM.

Petitioner appeals of right from an order dismissing its claim for a refund of overpaid motor fuel taxes. Respondent rejected petitioner’s claim on the ground that the relevant limitations period had run and petitioner appealed to the Michigan Tax Tribunal, which affirmed. We reverse.

“This Court’s review of Tax Tribunal decisions is very limited.” *Columbia Associates, LP v Dep’t of Treasury*, 250 Mich App 656, 665; 649 NW2d 760 (2002). This case was submitted on stipulated facts, so they are taken as conclusive. *Id.* We limit our review to whether the tribunal committed legal error or applied an incorrect legal principle. *Id.*

Michigan’s former motor fuel tax act, MCL 207.101 *et seq.*, imposed a tax on gasoline or diesel fuel purchased in Michigan or used to power motor vehicles on Michigan’s public roads. *Ammex, Inc v Dep’t of Treasury*, 237 Mich App 455, 459; 603 NW2d 308 (1999). However, a “purchaser” of fuel ultimately used for a purpose other than operating a motor vehicle on Michigan’s public roads could claim a refund for taxes paid under the act. *Id.* at 459-460. This motor fuel tax act was enacted by 1927 PA 150 and replaced by 2000 PA 403. See MCL 207.1169. The present motor fuel tax, MCL 207.1001 *et seq.*, became effective on April 1, 2001. MCL 207.1170. Petitioner filed its claim for a refund the same day. The new act was in effect on the date the refund was requested, but the former motor fuel tax act, MCL 207.101 *et seq.*, was in effect when petitioner paid the relevant taxes.

The former motor fuel tax act contained a one-year limitations period in which to claim refunds, but our Supreme Court recently ruled that “the one-year statute of limitations on refund requests applied only to community action agencies by the plain language of MCL 207.112(2).” *DaimlerChrysler Corp v Dep’t of Treasury*, \_\_\_ Mich \_\_\_, \_\_\_ NW2d \_\_\_ (Docket No. 124799, decided April 9, 2004). According to the court, all other claimants, including those in

petitioner's position "were subject to the four-year limitation period contained within MCL 205.27a(2)." That limitations period applies generally to all claimants seeking recovery of tax overpayments. MCL 205.30. Under the new motor fuel tax act, MCL 207.1047 sets a new statute of limitations for recovery of motor fuel tax overpayments. It states,

A person may otherwise seek a refund for tax paid under this act on motor fuel pursuant to section 30 of 1941 PA 122, MCL 205.30. However, the claim for refund shall be filed within 18 months after the date the motor fuel was purchased.

The issue then is whether we should apply the new eighteen-month limitations period, or the four-year limitations period established in *DaimlerChrysler*. The relevant time period began within eighteen months of the date petitioner filed its refund claim, so this issue is ultimately moot. However, it is worth noting that the applicable statute of limitations is the one in effect when a petitioner's cause of action arose. *Chase v Sabin*, 445 Mich 190, 192; 516 NW2d 60 (1994). In this case, MCL 207.1047 was not enacted until after petitioner's tax overpayments, so the new limitation period is inapplicable. *Rzadkowolski v Pefley*, 237 Mich App 405, 411; 603 NW2d 646 (1999). The only limitations period remaining is the four-year period applied in *DaimlerChrysler* and found in MCL 205.27a(2). Because the Michigan Tax Tribunal incorrectly barred petitioner's refund claim by applying the wrong limitations period, it committed a reversible error of law.

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

/s/ Joel P. Hoekstra  
/s/ Peter D. O'Connell  
/s/ Pat M. Donofrio