

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2007-000214

08/09/2010

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

OMYA ARIZONA INC

DONALD P ROELKE

v.

PINAL COUNTY

ROBERTA S LIVESAY

MINUTE ENTRY

The Court took this matter under advisement following oral argument on July 26, 2010. The Court has considered Pinal County's Motion for Summary Judgment and Omya Arizona's Cross-Motion for Partial Summary Judgment.

Two issues are raised. The first can be dealt with quickly. The Department of Revenue Personal Property Manual defines "spare parts" as supplies to be reported as taxable personal property, unless they are acquired as part of an equipment package and included in the cost of that package. Nothing in this definition addresses how quickly a spare part must be used or requires that it be used within a year. That Omya for its internal inventory distinguishes between parts it anticipates using within one year and parts expected to be needed less frequently is of no consequence. (Even a rarely-needed spare part must at some point be within a year of its use, and so constitute a supply under the definition proffered by Omya; conversely, a part expected to require frequent replacement may last longer than anticipated, so that its spare remains in inventory for over a year. Of course, it is impossible to know when a part enters the year in which it will be used until twelve months later when it is in fact used, a serious problem for an assessor charged with determining its current taxable status. Predictability would require either never taxing spare parts or taxing them every year. Arizona has chosen the latter.) There is no suggestion that Omya's "capitalized spare parts" were acquired as part of an equipment package and included in its cost. Therefore, they are supplies and are to be reported as taxable personal property.

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As for the second issue, Omya asserts that certain personal property was overvalued by the assessor because the property value reflected on its books, on which the assessor relied, contained a “capitalized interest” cost allegedly resulting from an inter-company transaction between Omya Arizona and its parent, Omya Inc. Omya itself describes this “capitalized interest” as a “fiction,” and the term strikes the Court as appropriate: it does not memorialize any actual payment of or obligation to pay interest (or even principal) to the parent, and its amount is not reflected in any document other than as an alleged, and apparently arbitrary, overstatement of value in Omya Arizona’s books. A.R.S. § 42-16251(3)(e) requires that a correctable error be “objectively verifiable without the exercise of discretion” and “demonstrated by clear and convincing evidence.” Even were the proper standard a mere preponderance of the evidence, the Court does not believe Omya’s bare, inherently unverifiable assertion that some portion, knowable only to it, of the book value of its assets constitutes fictitious interest would rise to the level of creating a genuine issue of material fact as to the existence of an erroneous valuation of the property; still less does it do so under the clear and convincing standard.

Therefore, IT IS ORDERED Pinal County’s Motion for Summary Judgment is granted.

IT IS FURTHER ORDERED Omya Arizona’s Cross-Motion for Partial Summary Judgment is denied.