

PORT CITY RUBBER & GASKET COMPANY, INC. P.O. Box 1009 Theodore, AL 36590,	§ § § § §	STATE OF ALABAMA DEPARTMENT OF REVENUE ADMINISTRATIVE LAW DIVISION DOCKET NO. MISC. 97-424
Taxpayer,		
v.		
STATE OF ALABAMA DEPARTMENT OF REVENUE.		

FINAL ORDER

The Revenue Department assessed privilege license tax against Port City Rubber and Gasket Co., Inc. (“Taxpayer”) for the fiscal years ending September 30, 1993 - September 30, 1995. The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on June 19, 1998 in Mobile, Alabama. The Taxpayer’s representative was notified of the hearing by certified mail, but failed to appear. Assistant Counsel Duncan Crow represented the Department.

This case involves the privilege license tax levied at Code of Ala. 1975, §40-12-87. The issue is whether the Taxpayer is in the business of manufacturing any finished or semi-finished rubber products. If so, the Taxpayer is subject to the §87 license.

The Mobile County License Inspector cited the Taxpayer for the merchant’s license levied at §40-12-81, the manufacturer’s license levied at §40-12-87, and the annual business fee levied at §40-12-315. The Taxpayer concedes that the §81 and §315 licenses are due, but objects to the §87 license.

Section 87 levies a graduated license fee on any “person...manufacturing any finished or semi-finished product of...rubber...where materials are..., made, or assembled...” The County Investigator determined that the Taxpayer was subject to the above license because the Taxpayer makes rubber gaskets by cutting the gaskets from manufactured rubber pipe.

The Taxpayer's appeal letter reads in part as follows:

"Port City Rubber & Gasket Co., Inc. is a distributor (not a manufacturer) of rubber hoses and gaskets. Most sales are to manufacturing entities such a pulp and paper mills, chemical plants, etc. Hoses and gaskets are sometimes cut to sizes specified by customers, however, there is no manufacturing processes and very little assembly involved in these orders. The only assembly involved would be the attachment of a fastener to a hose on some orders."

"Manufacture" is not defined in Alabama's Revenue Code, Title 40, Code of Ala. 1975. In such cases, an undefined word must be given its common, generally understood meaning. State v. American Brass, Inc., 628 So.2d 920 (Ala.Civ.App.1993).

The American Heritage Dictionary, 2nd College Edition, at page 764, defines "manufacture" in part - "to make or process (a raw material) into a finished product,...To make or process...To create, produce, or turn out in a mechanical manner...".

The Taxpayer makes gaskets by cutting rubber pipe to the appropriate size. The Taxpayer is making or processing the rubber pipe into gaskets. That activity constitutes manufacturing as defined above, even if the Taxpayer's primary activity is the sale and distribution of the gaskets and other previously manufactured products.

The final assessment is affirmed. Judgment is entered against the Taxpayer for privilege license tax of \$1,526.48, plus applicable interest.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered June 29, 1998.

BILL THOMPSON
Chief Administrative Law Judge

BT:ks

cc: Duncan R. Crow, Esq.
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