

ALABAMA TAX TRIBUNAL

PLUMBER'S PUB, §
Taxpayer, § DOCKET NO. COUNTY 16-108-CE
v. §
ETOWAH COUNTY & CITY OF GADSDEN. §

FINAL ORDER DENYING TAXPAYER'S "MOTION TO RECONSIDER OR IN THE ALTERNATIVE A MOTION FOR A NEW TRIAL"

On May 30, 2017, the Alabama Tax Tribunal entered a Final Order in this appeal which affirmed final assessments of sales tax against the Taxpayer because the Taxpayer did not comply with a discovery order. Nearly 4 years later, on March 4, 2021, the Taxpayer filed with the Tax Tribunal a "Motion to Set Aside Judgment of Court Under Rule 60(b)(4) of" [the Alabama Rules of Civil Procedure], asking that the final assessments be voided. The Taxpayer's motion was denied by Final Order dated March 11, 2021. The Final Order noted that the Rules of Civil Procedure do not apply to proceedings before the Tax Tribunal. The Final Order also noted that there is no provision in the Tax Tribunal statutes that allows a party to request relief from an order nearly 4 years after the entry of that order.

The Taxpayer has filed another motion with the Tax Tribunal — a "Motion to Reconsider or in the Alternative a Motion for a New Trial" — again claiming that the assessments should be voided. In this motion, the Taxpayer cites a different rule of the Alabama Rules of Civil Procedure (Rule 59), even though the Rules of Civil Procedure do

not apply to Tax Tribunal proceedings. Simply put, the Tax Tribunal no longer has jurisdiction in this appeal.

The Taxpayer's "Motion to Reconsider or in the Alternative a Motion for a New Trial" must be and is denied. See Final Order Denying Taxpayer's Motion to Set Aside Judgment of Court under Rule 60(b)(4), dated March 11, 2021.

The Final Order entered by the Tax Tribunal on May 30, 2017, in which the final assessments were affirmed, remains in effect.

It is so ordered.

Entered March 30, 2021.

/s/ Jeff Patterson

JEFF PATTERSON

Chief Judge

Alabama Tax Tribunal

jp:cm

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