

CAMPBELL & WARD PETROLEUM LLC§
P.O. BOX 1437
DECATUR, AL 35602,

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

Taxpayer,

§ DOCKET NO. S. 13-358

v.

§
STATE OF ALABAMA
DEPARTMENT OF REVENUE.

FINAL ORDER

The Revenue Department denied a refund of State sales tax requested by Campbell & Ward Petroleum, LLC (“Taxpayer”) for January 2010 through January 2013. The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(c)(2)a. A hearing was conducted on June 6, 2013. Ray Ward represented the Taxpayer. Assistant Counsel Keith Maddox represented the Department.

The Taxpayer sold dyed diesel fuel to Shaneyfelt Shavings during the period in issue. It charged and collected sales tax on the diesel. Shaneyfelt subsequently used the fuel to operate various machines that it used to process or convert pine logs into pine shavings. Shaneyfelt then sold the shavings to individuals and/or companies that operated chicken houses.

The Taxpayer contacted a Revenue Department employee in Montgomery and explained how the fuel was being used. The employee told the Taxpayer that the diesel was being used for an exempt purpose. The Taxpayer consequently petitioned for a refund of the sales tax it had paid on the diesel during the period in issue. The Department denied the petition, and the Taxpayer appealed.

Code of Ala. 1975, §40-23-4(a)(38) exempts from sales tax the sale of diesel fuel used for off-road agricultural purposes. The word “agriculture” is not defined by the

Alabama Revenue Code, Title 40, Code 1975. In such cases, the word must be given its normal, everyday meaning. *Custer v. Homeside Lending, Inc.*, 858 So.2d 233 (Ala. 2003). The American Heritage Dictionary, 4th Ed., at 27, defines “agriculture” as “[t]he science, art, and business of cultivating soil, producing crops, and raising livestock; farming.” Department Reg. 810-6-3-.01.01 also defines “agriculture” as “the art or science of cultivating the ground, and raising and harvesting crops, including also feeding, breeding, and management of livestock and poultry; tillage; husbandry, farming.”

Tree farming constitutes an agricultural pursuit or business, see Reg. 810-6-6-.01.01(2). Consequently, diesel used to operate a machine or device used in planting, fertilizing, pruning, and harvesting trees, and for any other purpose directly involving tree farming, would be exempt from sales tax pursuant to §40-23-4(a)(38).

In this case, however, the diesel in issue was used to process pine tree logs into pine shavings. That use does not constitute an agricultural purpose because it occurs after the trees have been cultivated and harvested. It is also irrelevant that the shavings are sold to chicken farmers. To be exempt, the diesel must itself be used for an agricultural purpose. Processing logs is not an agricultural purpose. The above conclusion is supported by the rule of statutory construction that an exemption must be narrowly construed against the taxpayer and for the government. *Fleming Foods of Alabama, Inc. v. Dept. of Revenue*, 648 So.2d 580, cert. denied 115 S. Ct. 1690 (1995).

The Department’s denial of the refund in issue is affirmed.

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

Entered June 14, 2013.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: Keith Maddox, Esq.
Ray Ward
Joe Walls
Myra Houser