

STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Andersons Albion Ethanol, LLC,
Petitioner,

v

MTT Docket No. 14-005289

Michigan Department of Treasury,
Respondent.

Tribunal Judge Presiding
David B. Marmon

ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION

FINAL OPINION AND JUDGMENT ON REMAND

INTRODUCTION

On March 3, 2015, the Tribunal issued an Order granting summary disposition for Petitioner, Andersons Albion Ethanol, LLC. On March 24, 2015, Respondent Michigan Department of Treasury filed its Motion for Reconsideration, which was denied on May 21, 2015. On June 11, 2015, Respondent filed its appeal to the Michigan Court of Appeals. On September 13, 2016, in a decision designated for publication, the Michigan Court of Appeals reversed and remanded this matter to the Tribunal. The Court of Appeals stated:

[W]e conclude that the Tribunal erred by granting summary disposition to Andersons. Rather, it should have granted summary disposition to the Department because the Department's interpretation of MCL 208.1433(9)(f) was not contrary to the statute, and it lacked cogent reasons to overturn it.¹

We reverse and remand. We do not retain jurisdiction.

Petitioner filed its motion to reconsider in the Court of Appeals, which denied the motion on November 4, 2016. Petitioner filed for leave to the Michigan Supreme Court on December 8, 2016, which was denied on June 7, 2017, and the file returned to the Tribunal.

Per the Order of the Michigan Court of Appeals, the Tribunal enters the following Order and Judgment:

¹ *Andersons Albion Ethanol, LLC v Dep't of Treasury*, 317 Mich App 208; 893 NW2d 642 (2016).

JUDGMENT

IT IS ORDERED that Respondent's Order for Summary Disposition is GRANTED.

IT IS ORDERED that Final Assessment TN69081 is AFFIRMED.

This Final Opinion and Judgment resolves the last pending claim and closes this case.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A Motion for reconsideration must be filed with the required filing fee within 21 days from the date of entry of the final decision.² Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.³ A copy of the motion must be served on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion.⁴ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.⁵

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more

² See TTR 261 and 257.

³ See TTR 217 and 267.

⁴ See TTR 261 and 225.

⁵ See TTR 261 and 257.

than 21 days after the entry of the final decision, it is an “appeal by leave.”⁶ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.⁷ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.⁸

By David B. Marmon

Entered: June 14, 2017

⁶ See MCL 205.753 and MCR 7.204.

⁷ See TTR 213.

⁸ See TTR 217 and 267.