Court Reports

Ala. Dep't of Revenue v. CSX Transp., Inc., 135 S. Ct. 1136 (2015) (holding that competing motor carriers and water carriers are similarly situated classes when determining discrimination under 49 U.S.C. § 11501(b)(4), but discrimination may occur if a state cannot sufficiently justify its differences in tax treatment between similarly situated classes).

CSX Transportation Inc. ("CSX") is an interstate rail carrier that operates in several states, including Alabama. CSX sought to enjoin Alabama state officers from collecting a sales tax on the purchase of diesel fuel. Alabama charges a 4% sales tax on diesel fuel, but exempts trucking transport companies (referred to here as "motor carriers") and water carriers. Motor carriers must instead pay a fuel-excise tax while water carriers are exempted from both. CSX claims that Alabama's asymmetrical taxing structure "discriminates against rail carriers," thus violating § 11501(b)(4) of the Railroad Revitalization and Regulation Reform Act of 1976 ("4-R Act").

CSX filed a complaint against the state's Department of Revenue in the district court. Both the District Court and Eleventh Circuit rejected CSX's argument in this case's first argument. However, the Supreme Court held that despite Alabama's argument that its exemptions cannot "discriminate" within the meaning of subsection (b)(4), CSX may challenge the exemptions. *CSX Transp., Inc. v. Alabama Dept. of Revenue,* 562 U.S. 277, 296–297 (2011). The case was remanded for further proceedings.

On remand, the district court rejected CSX's claim of discrimination. This decision was reversed by the Eleventh Circuit, which ruled that CSX could establish discrimination by showing that Alabama taxed rail carriers differently than their competitors, the motor carriers and water carriers.

The Supreme Court first addressed the issue of whether Alabama violated the 4-R Act. To determine if there was a violation, the Court considered whether there was discrimination against the rail company when it was compared to a "similarly situated" class. A "similarly situated" class can be two or more companies that operate the same utility. In order to give effect to subsection (b)(4) and not frustrate the purpose of the 4-R Act, the Court ruled that motor carriers, water carriers, and rail carriers are similarly situated classes. Additionally, the Court specifically noted that it would be permissible for a State to tax a rail carrier

more than a motor carrier, so long as the State can sufficiently justify the differences in treatment between the similarly situated classes.

The Court then noted that if a state levies a tax to one group that is roughly equivalent to a different tax levied against another, there is likely no discrimination. The state argued that the fuel-excise tax against motor carriers is roughly equivalent to the 4% sales tax that rail carriers are charged. The fuel-excise tax charges motor carriers 19 cents per gallon on diesel fuel. The Court remanded this issue of rough equivalency to the lower court.

Finally, the Court addressed whether the state violated the 4-R Act by levying the sales tax and fuel excise taxes against rail and motor carriers, but levying no additional tax to water carriers. The state argues that federal law compels the tax exemption for water carriers. Because the Eleventh Circuit did not address this issue, the Court remanded the issue of whether the water carrier's exemption is justified to the lower court.

Accordingly, the Court reversed the Eleventh Circuit's determination of discrimination. Then remanded the case to the circuit court to determine if Alabama had sufficient justification for the exemption for both the motor and water carriers.

Jaclyn M. Calicchio

Airlines for Am. V. Transp. Sec. Admin., 780 F.3d 409 (D.C. Cir. 2015) (holding that the Transportation Security Administration may impose a screening fee per one-way trip including international flights that have a connecting flight in the United States and that this fee does not violate 49 U.S.C. §44940(c)(1)).

The Transportation Security Administration (TSA) is permitted to charge airline passengers a screening fee of $5.60 for all one-way trips that originate in the United States. TSA rules state that any trip with a stopover lasting more than four hours, contains multiple one-way trips. Airlines for America, an airline trade organization representing individual airlines, challenged the TSA's rule, claiming that it violated statute 49 U.S.C. § 44940(c)(1) which stated, "Fees imposed under subsection (a)(1) shall be $ 5.60 per one-way trip in air transportation or intrastate air transportation that originates at an airport in the United States, except that the fee imposed per round trip shall not exceed $11.20."

The airlines made two claims against the Transportation Security Administration: 1) the TSA had no right to charge a passenger more than $11.20 per round trip, and 2) it is prohibited for TSA to charge passengers for travel that started abroad but have a connecting flight in the United