

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT
PART III, AT NASHVILLE

HILLSIDE WINERY, INC.,)
)
Plaintiff,)
)
APPLE BARN WINERY, MOUNTAIN)
VALLEY VINEYARDS, SUGARLAND)
CELLARS,)
)
Intervening Plaintiffs,)
)
vs.)
)
COMMISSIONER OF REVENUE,)
DEPARTMENT OF REVENUE,)
STATE OF TENNESSEE,)
)
Defendant.)

No. 21-0071-III
Chancellor Tony A. Childress
Chancellor Ellen Lyle (Chief Judge)
Chancellor John C. Rambo

FINAL ORDER

In this lawsuit, plaintiff Hillside Winery, Inc. sued the Commissioner of Revenue for a refund of wine gallonage taxes paid under Tenn. Code Ann. §§ 57-3-302(a) and 303(a) (Count I of the Amended Complaint), an award of attorneys' fees and expenses of litigation under Tenn. Code Ann. § 67-1-1803(d) (Count II), and to challenge the facial constitutionality of the wine gallonage tax under the Declaratory Judgment Act, Tenn. Code Ann. §§ 29-14-101, *et seq.* (Count III). The Intervening Plaintiffs filed an Intervening Complaint to join the challenge made under Count III.

As a result of the inclusion of a facial constitutional challenge in Count III, and pursuant to Tenn. Code Ann. § 20-18-101, this case was assigned by the Tennessee Supreme Court to a Three Judge Panel drawn from the three Grand Divisions of the State.

On January 25, 2022, the Panel entered its “Memorandum and Order Granting Defendant’s Motion for Partial Summary Judgment and Denying Motion for Partial Summary Judgment of Plaintiff and Intervening Plaintiffs”; this “Memorandum and Order” is fully incorporated by reference into this “Final Order.” The parties have agreed that the Commissioner has paid the refund requested in Count I of the Amended Complaint and that claim has thus been rendered moot. The Panel granted summary judgment to the Commissioner of Revenue on Count III as to all plaintiffs and reserved disposition of Count II. By a Joint Notice filed on February 28, 2022

, the parties have advised the Panel that they have resolved Count II.

It is therefore ORDERED, ADJUDGED, and DECREED as follows:

1. The Panel finds Count I of the Amended Complaint to be moot.
2. The Panel finds Count II of the Amended Complaint to have been resolved on terms satisfactory to the parties.
3. On Count III of the Amended Complaint and the entirety of the Intervening Complaint, the Panel hereby grants summary judgment to the Commissioner of Revenue and denies the plaintiffs’ motion for summary judgment on the grounds stated in the “Memorandum and Order” entered by the Panel on January 25, 2022.
4. All issues having been resolved, this case is closed, and both the Amended Complaint and the Intervening Complaint are dismissed with prejudice.
5. Outstanding court costs not previously paid will be assessed half against the plaintiffs, jointly and severally, and half against the defendant.

IT IS SO ORDERED.

s/ Tony A. Childress
TONY A. CHILDRESS
Chancellor

s/ Ellen Hobbs Lyle
ELLEN HOBBS LYLE
Chancellor

s/ John C. Rambo
JOHN C. RAMBO
Chancellor

Approved as to form by:

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