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BALACLAVA HOLDINGS LTD.

v.

ASSESSOR OF AREA 12 - COQUITLAM

Supreme Court of British Columbia (A951877) Vancouver Registry

Before the HONOURABLE MR. JUSTICE TYSOE (in chambers)

Vancouver, December 6, 1995

B.J. Wallace and K. Sargent for the Appellant
G.E. McDannold for the Respondent

Reasons for Judgment (Oral)

December 6, 1995

Balacava Holdings Ltd. challenges the decision of the Assessment Appeal Board dated April 26, 1995, by way of a Stated Case pursuant to s. 74(2) of the *Assessment Act*.

The issue before the Board was whether Balacava's recycling plant was designed for the manufacturing of pulp within the meaning of the definition of "industrial improvement" in s. 26.1 of the *Assessment Act*. In essence, the question is whether manufacturing is limited to the processing of raw materials in their natural state or whether it includes the processing of materials in a previously manufactured state.

Whether this can be characterized as a question of law or a question of mixed fact and law, it is my view that the Assessment Appeal Board did not err. The Board accepted the definition of manufacturing contained in the decision of *The Queen v. York Marble* (1967) 65 D.L.R. (2d) 449 (S.C.C.) at page 453. The Board found that Balacava's process fell within this definition.

I agree with the Board's conclusion. No other definition of manufacturing has been put forward, other than to say that the recycling of newsprint to pulp constitutes de-manufacturing.

In addition, it is my view that the Board's decision is consistent with the legislative scheme.

I answer the question in the Stated Case in the negative.

I award costs of the proceeding to the Assessor, such costs to be party and party costs assessed at Scale 3.