

ORIGINAL

In the Supreme Court of Ohio

Navistar, Inc., f/k/a International Truck
and Engine Corporation,

Appellant,

v.

Richard A. Levin,
Tax Commissioner of Ohio,

Appellee.

Case No. 2014-0140

Appeal from the Ohio
Board of Tax Appeals

BTA Case No. 2010-575

MOTION OF APPELLANT NAVISTAR, INC. FOR ARGUMENT TO THE SUPREME COURT RATHER THAN A MASTER COMMISSIONER

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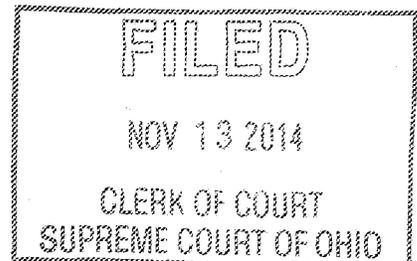
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MOTION OF APPELLANT NAVISTAR, INC. FOR ARGUMENT TO THE SUPREME COURT RATHER THAN A MASTER COMMISSIONER

S.Ct.Prac.R.17.07(A) provides “[a]ppeals from the Board of Tax Appeals shall be referred to a regular or special master commissioner for oral argument unless the parties waive the argument or the Supreme Court, sua sponte or upon motion, decides to hear the argument itself.” Pursuant to the forgoing rule, appellant, Navistar, Inc., respectfully moves this Court for an order setting this tax appeal for oral argument before the Ohio Supreme Court.

The Tax Commissioner has improperly denied an Ohio manufacturer with over a century of compliance, tax payments and economic contribution to this state the benefit of a credit which the General Assembly provided for and clearly intended it to receive. Navistar has been manufacturing trucks at its plant in Springfield, Ohio since 1902, employing generations of Ohioans in the process. Through good economic times and bad, Navistar never turned its back on Ohio. Yet, the Commissioner now tries to deny Navistar its lawful credit, even though the credit was expressly intended to protect Ohio manufacturers like Navistar.

Navistar has come before this Court to ask the Court to reverse a decision by the Board of Tax Appeals and hold that the Tax Commissioner exceeded his authority when he denied a commercial activity tax credit based on financial statements that did not exist in the tax year in question. The Court is being asked to apply the long standing rule that the Tax Commissioner may not add to, enlarge, supply, expand, extend or improve the terms of a statute to meet a situation for which there is no provision, and to find that the Board of Tax

Appeals exceeded its authority in approving acts clearly not sanctioned by statute adopted by the General Assembly.

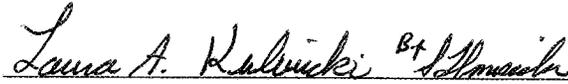
In addition, the Manufacturer's Association and the Ohio Chamber of Commerce have filed a Merit Brief of Amici Curiae in this matter. Navistar wishes to grant some its time to the amici so that they may have an opportunity to address the Court.

As such, appellant, Navistar, Inc., respectfully, moves the Court to hear oral argument in this case.

Respectfully submitted,


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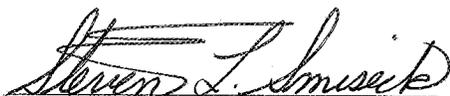

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing motion for argument to the supreme court rather than a master commissioner was delivered via email and U.S. regular mail to counsel for appellee, Mike DeWine, Attorney General of Ohio, and Barton A. Hubbard, Assistant Attorney General, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215, on November 13, 2014.



Steven L. Smiseck (0061615)
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