

Federal Court



Cour fédérale

Date: 20241030

Docket: T-1112-24

Citation: 2024 FC 1703

Toronto, Ontario, October 30, 2024

PRESENT: Madam Justice Pallotta

BETWEEN:

KANOKKARN CHUENYEN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The applicant, Kanokkarn Chuenyen, challenges a decision made on behalf of the Minister of National Revenue that refused her request for taxpayer relief under subsection 220(3.1) of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) [ITA].

[2] Ms. Chuenyen requested relief from assessed interest and penalties for the 2021 taxation year. After a first reviewer found that taxpayer relief was not warranted, Ms. Chuenyen submitted a second request. The reasons for her request included the fact that she was a new

immigrant who did not know how to file an income tax return, and she did not have access to her online account with the Canada Revenue Agency.

[3] Following a second review that independently reviewed the circumstances of Ms. Chuenyen's case, the Minister's delegate denied the request for taxpayer relief. The delegate explained the decision in a letter sent to Ms. Chuenyen on April 11, 2024. This is the decision that Ms. Chuenyen challenges in this proceeding.

[4] The Minister's delegate found that Ms. Chuenyen had a history of non-compliance and late or outstanding payments, knowingly allowed a balance to exist upon which arrears interest accrued, did not exercise reasonable care in conducting her affairs under the self-assessment system, and did not act quickly to remedy any delay or omission. The delegate also found that the circumstances that prevented Ms. Chuenyen from meeting her tax obligations were not beyond her control. The delegate explained that taxpayers are responsible for ensuring that they report all income, complete their tax returns correctly, and file them when due. The delegate explained that penalties for failure to report income apply even if the failure was unintentional or caused by a third party.

[5] Section 220(3.1) of the *ITA* grants the Minister broad discretion to waive or cancel all or any portion of any penalty or interest otherwise payable under the relevant provisions of that statute. The sole issue on this application for judicial review is whether the delegate's decision refusing to waive or cancel all or part of the penalty and interest assessed against Ms. Chuenyen was unreasonable.

[6] Ms. Chuenyen submits that the delegate's decision was unreasonable because it contained several errors. For example, Ms. Chuenyen argues that her lack of knowledge was beyond her control because she was not given information when she came to Canada and it takes time to learn the system. She also argues that the delegate erred by placing weight on the fact that she knew how to access her online account and had accessed it in March 2017, when in fact it was her ex-husband who accessed the account and she did not fully understand how to use it until 2021. Ms. Chuenyen submits the errors in her pre-2021 income tax returns were attributable to a volunteer tax consultant and she did not know how to spot the errors because her ex-husband had filed her tax returns in the past.

[7] Ms. Chuenyen feels that the Minister's delegate did not believe her explanation that she did not know about the errors on earlier returns and relied on others to prepare them, and she emphasizes that she truly did not know. While she acknowledges her mistake on her 2021 tax return and knows she will have to be more careful, she contends it should be considered as her first mistake.

[8] Ms. Chuenyen asks the Court to reconsider the delegate's decision, but the Court cannot do so on judicial review. The Court does not reweigh the evidence and decide whether to grant taxpayer relief, as that was a decision for the Minister's delegate to make. This Court's role is to consider whether the delegate's decision suffers from sufficiently serious shortcomings, such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para 15.

[9] It may seem that the Minister's delegate did not believe Ms. Chuenyen's explanation, but in fact the delegate reached a decision by following principles that are set out in the Canada Revenue Agency's Information Circular IC07-1R1 - Taxpayer Relief Provisions [the Guidelines]. The Guidelines state that taxpayers are responsible for making sure that they meet their tax obligations, and this generally includes responsibility for errors made by third parties who take care of the taxpayer's financial matters. These principles are also supported by decisions of the courts.

[10] Ms. Chuenyen has not established that the delegate's decision suffers from one or more shortcomings that render it unreasonable. It was not unreasonable for the delegate to consider the errors in previous tax years when deciding whether to grant taxpayer relief for the 2021 tax year. The delegate considered Ms. Chuenyen's submissions, reached a decision that was consistent with the law and the facts, and clearly explained why the request for taxpayer relief was refused.

[11] I agree with the respondent that the April 11, 2024 decision to deny taxpayer relief was reasonable. The Minister's delegate reasonably considered the legislative framework and the relevant facts, and came to a conclusion that was justified. Accordingly, I must dismiss this application.

[12] The respondent did not ask for an award of costs.

[13] At the hearing, the respondent handed up a book of additional authorities. The authorities were provided late and I see no reason why they could not have been included in the respondent's memorandum of argument. They will not be accepted for filing.

[14] As a final point, the respondent asks the Court to amend the style of cause to name the Attorney General of Canada as the proper respondent: Rule 303 of the *Federal Courts Rules*, SOR/98-106. Ms. Chuenyen does not oppose the request. I agree that the style of cause should be amended to name the Attorney General of Canada as the sole respondent.

JUDGMENT IN T-1112-24

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. The style of cause is amended to name the Attorney General of Canada as the sole respondent.
3. No costs are awarded.

"Christine M. Pallotta"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1112-24

STYLE OF CAUSE: KANOKKARN CHUENYEN v THE ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 24, 2024

JUDGMENT AND REASONS: PALLOTTA J.

DATED: OCTOBER 30, 2024

APPEARANCES:

Kanokkarn Chuenyen

FOR THE APPLICANT
(ON HER OWN BEHALF)

Elliot McPhail

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT