

Federal Court of Appeal



Cour d'appel fédérale

Date: 20141210

Docket: A-244-14

Citation: 2014 FCA 291

**CORAM: DAWSON J.A.
WEBB J.A.
NEAR J.A.**

BETWEEN:

MIROSLAW DRAG

Appellant

and

CANADA REVENUE AGENCY

Respondent

Heard at Toronto, Ontario, on December 9, 2014.

Judgment delivered at Toronto, Ontario, on December 10, 2014.

REASONS FOR JUDGMENT BY:

DAWSON J.A.

CONCURRED IN BY:

**WEBB J.A.
NEAR J.A.**

Federal Court of Appeal



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REASONS FOR JUDGMENT

DAWSON J.A.

[1] The Canada Revenue Agency concluded that the appellant provided taxable services in Canada and that he failed to collect and remit Goods and Services Tax (GST). The appellant was therefore assessed; such assessment included penalties and interest charges. The appellant applied for taxpayer relief under section 281.1 of the *Excise Tax Act*, R.S.C. 1985, c. E-15 (Act). As a result of this application, a decision was made to cancel the interest charges incurred up to the date of GST registration because the appellant never collected GST and so never had GST funds for his own use. The penalties were not waived or cancelled.

[2] A judge of the Federal Court dismissed an application for judicial review of that decision (2014 FC 367). This is an appeal from that decision.

[3] In my view, this appeal cannot succeed for the following reasons.

[4] First, the Federal Court Judge selected the correct standard of review and made no error in his application of the reasonableness standard to the decision not to waive or cancel the penalties assessed against the appellant.

[5] Second, the Judge correctly concluded that section 281.1 of the Act does not permit the waiver or cancellation of the underlying tax. Indeed, the appellant did not seek this remedy in his Request for Taxpayer Relief.

[6] Therefore, I would dismiss the appeal. In the circumstances, I would not award costs against the appellant.

"Eleanor R. Dawson"

J.A.

"I agree
Wyman W. Webb J.A."

"I agree
D.G. Near J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-244-14

APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE MANSON OF THE FEDERAL COURT, DATED APRIL 16, 2014, DOCKET NO. T-1571-13.

STYLE OF CAUSE: MIROSLAW DRAG v. CANADA
REVENUE AGENCY

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 9, 2014

REASONS FOR JUDGMENT BY: DAWSON J.A.

CONCURRED IN BY: WEBB J.A.
NEAR J.A.

DATED: DECEMBER 10, 2014

APPEARANCES:

Self-Represented FOR THE APPELLANT

Laurent Bartleman FOR THE RESPONDENT

SOLICITORS OF RECORD:

N/A FOR THE APPELLANT

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada