

Date: 20080313

Docket: A-259-07

Citation: 2008 FCA 103

**CORAM: DESJARDINS J.A.
NOËL J.A.
TRUDEL J.A.**

BETWEEN:

C.R.I. ENVIRONNEMENT INC.

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Hearing held at Montréal, Quebec, on March 13, 2008.

Judgment delivered at Montréal, Quebec, on March 13, 2008.

REASONS FOR JUDGMENT OF THE COURT BY:

NOËL J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the bench at Montréal, Quebec, on March 13, 2008.)

NOËL J.A.:

[1] This is an appeal from a decision rendered by Mr. Justice Bédard of the Tax Court of Canada (2007 TCC 206) upholding the reassessments made against the appellant for its 1998, 1999 and 2000 taxation years. Through those assessments, the Minister of National Revenue disallowed the Canadian manufacturing and processing profits deduction provided for in section 125.1 of the *Income Tax Act* (Act) that was claimed by the appellant for each of the years in question.

[2] Is the industrial waste processed by the appellant “for sale” within the meaning of subsection 125.1(3) of the Act? This is the only issue that was to be addressed by the judge of the Tax Court of Canada. In our opinion, he rightly answered this question in the negative because the third-person recipients to whom the waste was sent did not purchase it for a price in money that they obligated themselves to pay, as required in article 1708 of the *Civil Code of Québec*. Instead, the Appellant paid an amount to these third-person recipients to accept the waste. The argument that this was a sale for a “negative price” lacks any legal basis, since without the monetary consideration, there is no sale.

[3] Even if a law other than Quebec private law applied to some of the transactions carried out by the appellant, the appellant does not explain how this other law could lead to a finding other than that arrived at by the judge of the Tax Court of Canada. To our knowledge, the concept of “negative price” sale has no more basis in common law than in civil law.

[4] The appeal will be dismissed with costs.

“Marc Noël”

Judge

Certified true translation
Susan Deichert, LLB

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET:

A-259-07

(APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE BÉDARD DATED MAY 1, 2007, DOCKET NO. 2004-4248(IT)G)

STYLE OF CAUSE:

C.R.I. Environnement Inc. v.
Her Majesty the Queen

PLACE OF HEARING:

Montréal, Quebec

DATE OF HEARING:

March 13, 2008

REASONS FOR JUDGMENT BY:

Desjardins J.A.
Noël J.A.
Trudel J.A.

DELIVERED FROM THE BENCH BY:

Noël J.A.

APPEARANCES:

Bertrand Leduc

FOR THE APPELLANT

Johanne Boudreau

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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FOR THE APPELLANT

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FOR THE RESPONDENT