

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20110602

Docket: A-97-10

Citation: 2011 FCA 186

**CORAM: SHARLOW J.A.
TRUDEL J.A.
STRATAS J.A.**

BETWEEN:

RONNIE LOUIS BOZZER

Appellant

and

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA
(as represented by the Minister of National Revenue in his capacity as
Minister responsible for the *Income Tax Act*), CANADA REVENUE AGENCY and
THE ATTORNEY GENERAL OF CANADA**

Respondents

Heard at Vancouver, British Columbia, on December 1, 2010.

Judgment delivered at Ottawa, Ontario, on June 2, 2011.

REASONS FOR JUDGMENT BY:

STRATAS J.A.

CONCURRED IN BY:

SHARLOW J.A.
TRUDEL J.A.

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REASONS FOR JUDGMENT

STRATAS J.A.

[1] Subsection 220(3.1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) allows the Minister to waive or cancel any portion of interest or penalties owing under the Act. It prescribes a ten year limitation period. But how is that ten year period to be determined? The answer to that question, a question of statutory interpretation, will determine the outcome of this appeal.

[2] The Federal Court judge agreed with the Minister's view of how the ten year period is to be determined under subsection 220(3.1) of the Act: 2010 FC 139. The appellant, Mr. Bozzer, disagrees and, in this Court, proposes an interpretation that is more generous to taxpayers.

[3] As this is a legal issue concerning the proper interpretation of subsection 220(3.1) of the Act, the standard of review of the decision of the Federal Court judge is correctness: *Redeemer Foundation v. M.N.R.*, 2006 FCA 325 at paragraph 24 (affirmed, without comment on this point, at [2008] 2 S.C.R. 643, 2008 SCC 46).

[4] For the reasons below, I am of the view that Mr. Bozzer's interpretation of subsection 220(3.1) is the correct one.

A. Subsection 220(3.1) of the Act

[5] Subsection 220(3.1) provides as follows:

220. (3.1) The Minister may, on or before the day that is ten calendar years after the end of a taxation year of a taxpayer (or in the case of a partnership, a fiscal period of the partnership) or on application by the taxpayer or partnership on or before that day, waive or cancel all or any portion of any penalty or *interest* otherwise *payable* under this Act by the taxpayer or partnership *in respect of that taxation year or fiscal period*, and notwithstanding subsections 152(4) to

220. (3.1) Le ministre peut, au plus tard le jour qui suit de dix années civiles la fin de l'année d'imposition d'un contribuable ou de l'exercice d'une société de personnes ou sur demande du contribuable ou de la société de personnes faite au plus tard ce jour-là, renoncer à tout ou partie d'un montant de pénalité ou d'*intérêts payable* par ailleurs par le contribuable ou la société de personnes en application de la présente loi *pour cette année d'imposition ou cet exercice*, ou

(5), any assessment of the interest and penalties payable by the taxpayer or partnership shall be made that is necessary to take into account the cancellation of the penalty or interest. [emphasis added]

l'annuler en tout ou en partie. Malgré les paragraphes 152(4) à (5), le ministre établit les cotisations voulues concernant les intérêts et pénalités payables par le contribuable ou la société de personnes pour tenir compte de pareille annulation. [Non souligné dans l'original.]

B. The basic facts

[6] On December 6, 2005, at a time when Mr. Bozzer had tax debts that arose in his 1989 and 1990 taxation years, Mr. Bozzer applied to the Minister under subsection 220(3.1) of the Act for a waiver of interest accrued on the tax debt.

[7] The Minister denied the application for the following reasons:

As of January 1, 2005, the Agency's policy with regards to fairness requests was amended to exclude debts over 10 years of age from the date of submission. The ten years expired on December 31, 1999 for the 1989 taxation year and December 31, 2000 for the 1990 taxation year. For this reason we are unable to consider your request for departmental delay or error and have concluded it would not be appropriate to cancel or waive the interest.

[8] Mr. Bozzer applied to the Minister for a second-level review. The Minister denied that application as well, for the following reasons:

The above legislation [subsection 220(3.1)] is applicable because you applied for interest cancellation on December 6, 2005. Therefore the Minister has no discretion under subsection 220(3.1) to waive or cancel any interest otherwise payable under the Act in respect of your 1989 and 1990 taxation years. This is because it has been

more than ten calendar years since the ends of your 1989 and 1990 taxation years. In addition, you applied after 2004, which is more than ten calendar years after the ends of your 1989 and 1990 taxation years.

[9] Mr. Bozzer applied to the Federal Court for judicial review of the Minister's decision. The Federal Court judge dismissed the application, finding (at paragraph 51 of his reasons for judgment) that "the time limit in subsection 220(3.1) of the ITA is for the ten calendar years after the relevant taxation year, namely the year of assessment." In my view, this interpretation cannot stand, as the ten year period in subsection 220(3.1) of the Act does not start in the year of assessment. Nowhere does subsection 220(3.1) mention the year of assessment as a relevant consideration.

C. The parties' competing interpretations of subsection 220(3.1) of the Act and how they apply to the facts of this case

[10] Before this Court, the parties presented competing interpretations of subsection 220(3.1) of the Act. These competing interpretations result in drastically different results on the facts of this case.

[11] The parties' competing interpretations of subsection 220(3.1) concern only a portion of it and relate particularly to the phrase "interest payable in respect of [a] taxation year" (« d'intérêts payable pour [une] année d'imposition »):

220. (3.1) The Minister may, on or before the day that is ten calendar years after the end of a taxation year of a taxpayer...waive or cancel all or any portion of any ...*interest...payable...by*

220. (3.1) Le ministre peut, au plus tard le jour qui suit de dix années civiles la fin de l'année d'imposition d'un contribuable... renoncer à tout ou partie d'un montant ...*d'intérêts*

the taxpayer...*in respect of that taxation year*.... [emphasis added]

payable...par le contribuable...en application de la présente loi *pour cette année d'imposition*... [Non souligné dans l'original.]

(1) Mr. Bozzer's interpretation

[12] Mr. Bozzer submits that “interest...payable...in respect of [a] taxation year” means any interest accrued in that taxation year on a tax debt. On his view of the matter, subsection 220(3.1) permits the Minister to exercise his discretion to cancel interest accrued in any taxation year ending within ten years before the taxpayer’s application for relief, regardless of when the underlying tax debt arose.

[13] Under this interpretation, Mr. Bozzer analyzes the facts of this case as follows. He had tax debts that arose in the 1989 and 1990 taxation years. Interest accrued on those debts in every subsequent taxation year. On December 6, 2005, he applied to the Minister for a cancellation of interest. On his view of the matter, subsection 220(3.1) permits the Minister to cancel any interest that accrued in the ten taxation years preceding his application, that is, from January 1, 1995 to December 31, 2004. On this analysis, the fact that the tax debt arose in 1989 and 1990 is irrelevant.

(2) The Minister's interpretation

[14] The Minister disagrees. The Minister submits that “interest...payable...in respect of [a] taxation year” means any interest accrued on a tax debt that arose in that taxation year. Therefore,

the Minister may exercise his discretion to waive interest otherwise payable under the Act only if a taxpayer applies within ten calendar years of the end of the taxation year in which the underlying tax debt arose.

[15] In Mr. Bozzer's case, the underlying tax debt arose in 1989 and 1990. On the Minister's view of the matter, Mr. Bozzer had to apply for a waiver of interest on his 1989 tax debt by December 31, 1999 and his 1990 tax debt by December 31, 2000.

[16] Therefore, the Minister says that he has no statutory authority to consider Mr. Bozzer's application for a waiver of interest in this case. Mr. Bozzer's application was on December 6, 2005. On the Minister's view of the matter, that was nearly five years too late.

D. The proper approach to interpreting provisions in taxation legislation

[17] In *Canada Trustco Mortgage Co. v. Canada*, [2005] 2 S.C.R. 601, 2005 SCC 54 at paragraph 10, the Supreme Court of Canada set out the proper approach for interpreting taxation statutes:

The interpretation of a statutory provision must be made according to a textual, contextual and purposive analysis to find a meaning that is harmonious with the Act as a whole. When the words of a provision are precise and unequivocal, the ordinary meaning of the words plays a dominant role in the interpretive process. On the other hand, where the words can support more than one reasonable meaning, the ordinary meaning of the words plays a lesser role. The relative effects of ordinary meaning, context and purpose on the interpretive process may vary, but in all cases the court must seek to read the provisions of an Act as a harmonious whole.

The Supreme Court went on to observe (at paragraph 13) that the Act “remains an instrument dominated by explicit provisions dictating specific consequences, inviting a largely textual interpretation.” But where the text is equivocal, “greater recourse to the context and purpose of the Act may be necessary”: *Placer Dome Canada Ltd. v. Ontario (Minister of Finance)*, [2006] 1 S.C.R. 715 at paragraph 22.

E. The interpretation of the text of subsection 220(3.1)

[18] The parties’ submissions on how the text of subsection 220(3.1) should be interpreted, summarized above, persuade me that the text is ambiguous. The words “interest...payable...in respect of a taxation year,” examined in isolation, are conceivably capable of bearing either of the meanings suggested by the parties.

[19] As part of its submissions on how the text of subsection 220(3.1) should be interpreted, the Minister submits that an earlier decision of this Court is directly on point: *Montgomery v. M.N.R.*, 95 D.T.C. 5032; [1995] 1 C.T.C. 196.

[20] In my view, *Montgomery* is distinguishable. In *Montgomery*, this Court did not interpret the text of subsection 220(3.1) that is in issue in this appeal. Rather, this Court interpreted a transitional provision concerning subsection 220(3.1): S.C. 1993, c. 24, subsection 127(5). That transitional provision limited the application of subsection 220(3.1) to the “1985 and subsequent taxation years.” This Court simply held (at paragraph 11) that the Minister’s discretion was limited to the

waiving of interest otherwise payable under the Act for a taxation year that is either the 1985 taxation year or any later taxation year. *Montgomery* offers no guidance on the interpretation issue before us in this appeal.

[21] Since the text in this case is equivocal, in accordance with *Placer Dome, supra* at paragraph 22, it will be necessary for us to have “greater recourse” to the purpose of subsection 220(3.1) and the context surrounding it.

F. The purpose of subsection 220(3.1)

(1) What is the purpose?

[22] Subsection 220(3.1) is one of several taxpayer relief provisions in the Act. It was introduced in 1991 as part of what was called a “fairness package.” The Minister has explained the purpose behind these provisions as follows:

The legislation gives the CRA the ability to administer the income tax system fairly and reasonably by helping taxpayers to resolve issues that arise through no fault of their own, and to allow for a common-sense approach in dealing with taxpayers who, because of personal misfortune or circumstances beyond their control, could not comply with a statutory requirement for income tax purposes.

La législation donne à l'ARC la capacité d'administrer le régime de l'impôt sur le revenu de façon équitable et raisonnable en aidant les contribuables à régler des problèmes qui se présentent indépendamment de leur volonté et en permettant d'adopter une approche axée sur le bon sens dans le cas de personnes qui, en raison de problèmes personnels ou de circonstances indépendantes de leur volonté, n'ont pas pu satisfaire à une exigence législative aux fins de l'impôt sur le revenu.

See *Information Circular 07-1*, “Taxpayer Relief Provisions,” May 31, 2007, at paragraph 8.

[23] In law, the Information Circulars of the Canada Revenue Agency are nothing more than administrative policy statements. They are not finally determinative of the meaning of a provision of the Act.

[24] However, in this case, the plain words of subsection 220(3.1) support the description of purpose in the above passage, and there is nothing in the history behind subsection 220(3.1) or in related sections that would cast doubt on it. Indeed, in 2004 the Department of Finance confirmed it. It stated that subsection 220(3.1) permits the Minister to waive or cancel interest or penalties “in situations where factors beyond the taxpayer’s control, such as illness or a natural disaster, prevented a tax return from being filed on time”: Canada, Department of Finance, 2004 Budget, Budget Plan, March 23, 2004, annex 9, at page 347.

[25] Therefore, I am prepared to accept the description of purpose in the above passage as the purpose that subsection 220(3.1) is meant to further.

(2) Testing the parties’ competing interpretations against the purpose of subsection 220(3.1)

[26] One method of testing the parties’ competing interpretations is to imagine factual scenarios in which subsection 220(3.1) might be applied, apply subsection 220(3.1) to those scenarios,

examine the results, and then compare those results with the purpose that subsection 220(3.1) is meant to further.

[27] For this purpose, I shall examine two scenarios.

Scenario A

[28] Suppose that a taxpayer is obliged to remit income tax instalments during taxation year X but fails to do so. He files his income tax return for taxation year X on time, but fails to pay the resulting tax debt.

[29] At some point in year X+1, the Minister assesses the tax payable for taxation year X, with accrued interest, including interest on the unpaid instalments for taxation year X. Later, the taxpayer decides to apply for a cancellation of the interest accrued on the unpaid instalments for taxation year X.

[30] In this scenario, both the Minister's interpretation of subsection 220(3.1) and Mr. Bozzer's interpretation of subsection 220(3.1) will lead to the conclusion that the taxpayer must submit his application within ten years of the end of taxation year X.

Scenario B

[31] Suppose that this same taxpayer is about to file his income tax return for taxation year X on time. As in scenario A, the taxpayer was obliged to remit tax instalments during taxation year X but did not do so.

[32] However, in January of taxation year X+1, just before preparing the income tax return for taxation year X, the taxpayer is seriously injured in a car accident. In taxation year X+11 – after going through a coma, enduring many operations, recovering slowly, dealing with physical and mental challenges, and going through years of rehabilitation and retraining – the taxpayer finally gets around to filing his tax return for taxation year X.

[33] In taxation year X+12, the Minister assesses the tax payable for taxation year X, with accrued interest, including interest on the unpaid instalments for taxation year X. Again, the taxpayer decides to apply for a cancellation of the interest accrued on the unpaid instalments for taxation year X.

[34] On the Minister's interpretation of subsection 220(3.1), the taxpayer would be barred from asking for any waiver of interest. The tax debt on which interest accrued was eleven years ago, past the ten year limitation period.

[35] On Mr. Bozzer's interpretation of subsection 220(3.1), the taxpayer could apply for a waiver of interest that accrued during the ten taxation years preceding his application.

Assessment of the scenarios

[36] Scenario B shows that the Minister's interpretation of subsection 220(3.1) leads to a harsh result that is contrary to the purpose of subsection 220(3.1): to allow taxpayers to ask for relief against penalties and interest and to allow the Minister to grant such relief where, in his view of the overall fairness of the situation, it is appropriate to do so. In the words of the *Information Circular*, subsection 220(3.1) is one of several that are supposed to give the Minister an ability "to administer the income tax system fairly and reasonably" by "helping taxpayers to resolve issues that arise through no fault of their own." In particular, according to the *Information Circular*, this subsection is one of several designed "to allow for a common-sense approach in dealing with taxpayers who, because of personal misfortune or circumstances beyond their control, could not comply with a statutory requirement for income tax purposes."

[37] Admittedly, scenario B will not be a commonly-occurring circumstance. But it does show that the Minister's interpretation can prevent him from addressing, in a fair and reasonable way, taxpayers' problems that were caused by personal misfortune or circumstances during the statutory ten year period that were beyond the taxpayers' control, contrary to the purpose of subsection 220(3.1).

[38] As scenario B demonstrates, Mr. Bozzer's interpretation is fairer and, thus, more consistent with the purpose of subsection 220(3.1). Mr. Bozzer's interpretation gives the Minister a greater ability to address a taxpayer's misfortune or circumstances within the statutory ten year period that were beyond the taxpayer's control.

G. Subsection 220(3.1), viewed contextually

(1) The legislative history of subsection 220(3.1)

[39] Before 2004, there was no ten year limitation period in subsection 220(3.1). At any time, a taxpayer could ask the Minister to waive interest that accrued since 1985. The pre-2004 version of subsection 220(3.1) is as follows:

220. (3.1) The Minister may at any time waive or cancel all or any portion of any penalty or interest otherwise payable under this Act by the taxpayer or partnership and, notwithstanding subsections 152(4) to (5), such assessment of the interest and penalties payable by the taxpayer or partnership shall be made as is necessary to take into account the cancellation of the penalty or interest.

220. (3.1) Le ministre peut, à tout moment, renoncer à tout ou partie de quelque pénalité ou intérêt payable par ailleurs par un contribuable ou une société de personnes en application de la présente loi, ou l'annuler en tout ou en partie. Malgré les paragraphes 152(4) à (5), le ministre établit les cotisations voulues concernant les intérêts et pénalités payables par le contribuable ou la société de personnes pour tenir compte de pareille annulation.

[40] In 2004, subsection 220(3.1) was amended to include a ten year limitation period: S.C. 2005, c. 19, subsections 48(1) and (2). This resulted in the version of subsection 220(3.1) in issue in this case, which is reproduced here with the amendment emphasized:

220. (3.1) The Minister may, *on or before the day that is ten calendar years after the end of a taxation year of a taxpayer (or in the case of a partnership, a fiscal period of the partnership) or on application by the taxpayer or partnership on or before that day*, waive or cancel all or any portion of any penalty or *interest otherwise payable* under this Act by the taxpayer or partnership *in respect of that taxation year or fiscal period*, and notwithstanding subsections 152(4) to (5), any assessment of the interest and penalties payable by the taxpayer or partnership shall be made that is necessary to take into account the cancellation of the penalty or interest. [emphasis added]

220. (3.1) Le ministre peut, *au plus tard le jour qui suit de dix années civiles la fin de l'année d'imposition d'un contribuable ou de l'exercice d'une société de personnes ou sur demande du contribuable ou de la société de personnes faite au plus tard ce jour-là*, renoncer à tout ou partie d'un montant de pénalité ou d'*intérêts payable* par ailleurs par le contribuable ou la société de personnes en application de la présente loi *pour cette année d'imposition ou cet exercice*, ou l'annuler en tout ou en partie. Malgré les paragraphes 152(4) à (5), le ministre établit les cotisations voulues concernant les intérêts et pénalités payables par le contribuable ou la société de personnes pour tenir compte de pareille annulation. [Non souligné dans l'original.]

[41] The 2004 amendment represents a restriction of a right previously enjoyed by the taxpayer. In my view, in this particular situation, it was incumbent on Parliament to be clear in its language imposing the restriction and any doubt should be resolved in favour of the taxpayer. I note the following passage from the judgment of Estey J. in *Morguard Properties Ltd. v. City of Winnipeg*, [1983] 2 S.C.R. 493 at page 509:

...[T]he courts require that, in order to adversely affect a citizen's right, whether as a taxpayer or otherwise, the legislature must do so expressly. Truncation of such rights may be legislatively unintended or even accidental, but the courts must look for

express language in the statute before concluding that these rights have been reduced.

[42] The words chosen by Parliament are ambiguous. In my view, in this particular situation, this ambiguity should be resolved in favour of the taxpayer.

(2) The Minister's Technical Notes

[43] The Minister submitted that certain Technical Notes published at the time of the 2004 amendment to subsection 220(3.1) are relevant to the interpretation of the subsection. The Minister submitted that the Technical Notes reveal that the ten year limitation period was introduced in 2004 because of a concern that “administrative problems would arise if the Minister were required to verify claims going back as far as 1985” (Minister's memorandum of fact and law, paragraph 44).

[44] The Minister says that if Mr. Bozzer's interpretation is adopted, the Minister might have to verify details relevant to any past taxation year, even years before 1985, as long as the interest in question had accrued within the past ten years.

[45] I do not accept this as a plausible explanation for the ten year limitation period in the case of subsection 220(3.1).

[46] It might be an explanation for other provisions that were amended to include a ten year limitation period. For example, a taxpayer might try to use subsection 152(4.2) to claim a deduction

for a business expense incurred 15 years ago. In that context, the addition of a ten year limitation period to that subsection does eliminate “administrative problems.” Similarly, a taxpayer might try to use subsection 220(3.2) to file an election that he or she should have filed 15 years ago. The election goes back so many years that one might anticipate “administrative problems” for the Minister.

[47] But the ten year limitation period in subsection 220(3.1) is not needed to eliminate “administrative problems.” Under subsection 220(3.1), both before and after 2004, the Minister, in considering whether to grant relief, would only have to know the amount of the original tax debt upon which interest accrued, and what payments have been made and when. From there, the interest is determined by a mathematical calculation. There is no evidence that this poses an “administrative problem,” and the record discloses no basis upon which the existence of any such problem can be inferred.

[48] I would also note that, based on *Montgomery, supra* the Minister can never be obliged to look to years prior to 1985 when considering an application under subsection 220(3.1).

(3) The Minister’s Voluntary Disclosures Program

[49] Mr. Bozzer pointed to the Minister’s Voluntary Disclosures Program as another reason why its interpretation should be accepted by this Court.

[50] The Voluntary Disclosures Program is a policy (*Information Circular* IC00-1R2) of the Canada Revenue Agency, not law. Under this policy, taxpayers can make disclosures to correct inaccurate or incomplete information, or to disclose information not previously reported. If the Canada Revenue Agency accepts a taxpayer's disclosure as having met the terms of the policy, it will not charge the taxpayer penalties or prosecute the taxpayer regarding the matters disclosed.

[51] Mr. Bozzer submits that the Minister's statutory authority to relieve the taxpayer of penalties in such a case is found in subsection 220(3.1) of the Act, and nowhere else. Then he points to paragraph 13 of the policy, which describes exactly what penalties can be waived under this policy:

[13] For income tax submissions made on or after January 1, 2005, the Minister's ability to grant relief is limited to any taxation year in which the submission is filed. For example: in an income tax submission made on May 1, 2007, the limitation would apply so that relief would only be available for the 1997 and subsequent taxation years.

Mr. Bozzer notes that this is consistent with his interpretation and not the Minister's interpretation of subsection 220(3.1).

[52] But policy statements are not determinative of what statutory provisions mean in law. I do not consider Mr. Bozzer's submissions on the Voluntary Disclosures Program to be helpful on the legal issue of how subsection 220(3.1) of the Act is properly interpreted.

(4) Parliament’s ability to draft sections in the Act that achieve the effects it wants

[53] The Minister would like subsection 220(3.1) to have a forward looking effect, so that the ten year period runs forward from the year in which the tax debt occurred.

[54] As I have stated above, subsection 220(3.1) does not use language that clearly suggests that it should have a forward looking effect.

[55] But Parliament certainly knows how to draft sections that have a forward looking effect.

For example, Parliament has drafted another subsection in section 220, namely subsection 220(3.201), using language that clearly causes a “forward looking effect”:

220. (3.201) On application by a taxpayer, the Minister may extend the time for making an election, or grant permission to amend or revoke an election, under section 60.03 if

(a) the application is made on or before the day that is three calendar years after the taxpayer’s filing-due date for the taxation year to which the election applies; and

(b) the taxpayer is resident in Canada

220. (3.201) Sur demande d’un contribuable, le ministre peut proroger le délai pour faire le choix prévu à l’article 60.03, ou permettre que ce choix soit modifié ou annulé, si les conditions suivantes sont réunies :

a) la demande est présentée au plus tard le jour qui suit de trois années civiles la date d’échéance de production qui est applicable au contribuable pour l’année d’imposition visée par le choix;

b) le contribuable réside au Canada à celui des moments suivants qui est applicable :

(i) if the taxpayer is deceased at the time of the application, at the time that is immediately before the taxpayer's death, or

(i) s'il est décédé au moment de la demande, le moment immédiatement avant son décès,

(ii) in any other case, at the time of the application.

(ii) sinon, le moment de la demande.

[56] If Parliament meant subsection 220(3.1) to have a forward looking effect, it certainly knew how to draft it. It did not do so. This is another consideration in support of Mr. Bozzer's interpretation of the subsection.

(5) Effects on other sections of the Act or the administration of the Act

[57] If this Court were to adopt Mr. Bozzer's interpretation of subsection 220(3.1), would there be an unintended or unwelcome effect on other sections in the Act or in the administration of the Act? If there were, that might be a clue as to Parliament's intentions concerning subsection 220(3.1). However, in his written or oral submissions, the Minister did not identify any such effects.

H. Conclusion

[58] For the foregoing reasons, I agree with Mr. Bozzer's interpretation of subsection 220(3.1) of the Act.

[59] Accordingly, the Minister has the statutory authority to cancel interest on Mr. Bozzer's 1989 and 1990 tax debts, to the extent that it accrued during the ten taxation years preceding his

application to the Minister for interest relief under subsection 220(3.1) of the Act. Mr. Bozzer's application was made on December 6, 2005.

[60] Therefore, on the facts of this case, the interest that is the subject of Mr. Bozzer's application is the interest accrued under the Act from January 1, 1995 to December 31, 2004.

I. Proposed disposition

[61] Therefore, I would allow the appeal, set aside the judgment of the Federal Court, allow Mr. Bozzer's application for judicial review, and refer his application for interest relief back to the Minister for reconsideration in accordance with these reasons, all with costs to Mr. Bozzer both in this Court and in the Federal Court.

“David Stratas”

J.A.

“I agree
K. Sharlow J.A.”

“I agree
Johanne Trudel J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-97-10

**APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE SHORE)
DATED FEBRUARY 11, 2010, NO. T-826-08**

STYLE OF CAUSE: Ronnie Louis Bozzer v. Her Majesty the Queen in Right of Canada (as represented by the Minister of National Revenue in his capacity as Minister responsible for the *Income Tax Act*) and Canada Revenue Agency and The Attorney General of Canada

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: December 1, 2010

REASONS FOR JUDGMENT BY: Stratas J.A.

CONCURRED IN BY: Sharlow J.A.
Trudel J.A.

DATED: June 2, 2011

APPEARANCES:

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FOR THE RESPONDENT