

Federal Court of Appeal



Cour d'appel fédérale

Date: 20220302

Docket: A-212-21

Citation: 2022 FCA 41

**CORAM: STRATAS J.A.
WOODS J.A.
LOCKE J.A.**

BETWEEN:

HUMAN CONCERN INTERNATIONAL

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard by online video conference hosted by the registry on March 2, 2022.

Judgment delivered from the Bench at Ottawa, Ontario, on March 2, 2022.

REASONS FOR JUDGMENT OF THE COURT BY:

WOODS J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on March 2, 2022).

WOODS J.A.

[1] Human Concern International appeals from an order issued by Justice Lafleur of the Tax Court of Canada. For reasons delivered orally, the Court dismissed an application to postpone a suspension of Human Concern's authority to issue charitable receipts. The application was made pursuant to subsection 188.2(4) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) (the Act).

[2] Before discussing the merits of the appeal, we would briefly comment on a preliminary matter that was not raised by the parties. There is a threshold question of whether this Court has jurisdiction to hear the appeal. Section 27 of the *Federal Courts Act*, R.S.C. 1985, c. F-7 does not provide this Court with authority to hear appeals from certain types of interlocutory proceedings. In the circumstances of this case, a right of appeal is provided only if the order of the Tax Court is a final judgment. We have determined that it is not necessary to request submissions from the parties on this issue because, as we describe below, this appeal should be dismissed in any event.

[3] By way of background, Human Concern is registered as a charitable organization under the Act. It is the oldest Muslim international relief charity in Canada.

[4] Following an audit, the CRA sent a letter to Human Concern which proposed to revoke the charity's registration and invited the charity to make submissions. Ultimately, the CRA did not revoke the registration but it decided to impose a penalty and suspended receipting privileges for one year.

[5] In making the decision, the CRA concluded that Human Concern was involved in making false charitable tax receipts. Human Concern has filed a notice of objection.

[6] Human Concern also applied to the Tax Court for a postponement of the suspension pursuant to subsection 188.2(4). The Tax Court dismissed the application, and the charity has appealed to this Court. The Tax Court's decision is the subject of this appeal.

[7] In determining the application, the Tax Court was required to consider, and did consider, whether it was just and equitable to postpone the suspension. For this purpose, the Court applied the principles set out in *RJR-Macdonald Inc. v. Canada*, [1994] 1 S.C.R. 311, 111 D.L.R. (4th) 385. Accordingly, the Court found that Human Concern failed to establish that irreparable harm would result if the application were not granted. In addition, the Court concluded that Human Concern did not establish that the balance of convenience favoured granting the application. On these bases, the Court concluded it was not just and equitable that the application be granted.

[8] Before this Court, Human Concern submits that the Tax Court made a multitude of errors concerning its findings on irreparable harm and the balance of convenience. Human Concern also submits that the Tax Court should have considered principles similar to rules of natural justice and decline to enforce the suspension before a determination has been made as to whether the suspension should be upheld.

[9] In our view, Human Concern has not raised any error that would warrant this Court's intervention. Human Concern argues that errors of law were made that this Court should correct. We disagree with this characterization of their arguments. In effect, the arguments request that this Court should reweigh the evidence. This is beyond the Court's role. In particular, we agree with the Crown that the Tax Court was entitled to discount Human Concern's assertions in determining whether there was irreparable harm, and the Court was entitled to conclude that the balance of convenience favoured the Minister, which was acting as a public authority administering the registered charity provisions of the Act.

[10] Finally, there is no merit to Human Concern's argument that the Tax Court should have applied principles of natural justice to ensure that the charity is not deprived of its right to a determination on the merits before the suspension is imposed.

[11] Therefore, the appeal will be dismissed with costs.

"Judith Woods"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-212-21
STYLE OF CAUSE:	HUMAN CONCERN INTERNATIONAL v. HER MAJESTY THE QUEEN
PLACE OF HEARING:	BY ONLINE VIDEO CONFERENCE
DATE OF HEARING:	MARCH 2, 2022
REASONS FOR JUDGMENT OF THE COURT BY:	STRATAS J.A. WOODS J.A. LOCKE J.A.
DELIVERED FROM THE BENCH BY:	WOODS J.A.

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