

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250113

Docket: A-18-24

Citation: 2025 FCA 6

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

BETWEEN:

**KHAIR MOHAMMAD DOOSTYAR sometimes known as KHAIR
MOHAMMAD DOSTYAR and 1572680 ONTARIO INC.**

Appellants

and

HIS MAJESTY THE KING

Respondent

Heard at Toronto, Ontario, on January 13, 2025.

Judgment delivered from the Bench at Toronto, Ontario, on January 13, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

STRATAS J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Toronto, Ontario, on January 13, 2025).

STRATAS J.A.

[1] The appellants appeal from the Tax Court's judgment dated December 14, 2023 (*per* Sommerfeldt J.).

[2] In the Tax Court, a key issue was the balance of Mr. Doostyar's shareholder loan account with 1572680 Ontario Inc. at the end of 2012. On this, the appellants had a full opportunity to adduce evidence: see, among other things, Appeal Book, Tab 11, p. 131, ll. 7-10. The respondent followed with its evidence and closed its case. The Tax Court invited the appellants to adduce any rebuttal evidence they might have: see Appeal Book, Tab 17, p. 511, ll. 6-18. The appellants declined that opportunity. The parties argued the matter, including the shareholder loan issue. Then the Tax Court reserved its decision.

[3] The Tax Court prepared its judgment and supporting reasons. But before formally pronouncing judgment, it sent draft, unsigned copies to the parties. The Tax Court asked them to provide comments on any "typographical, grammatical, punctuation, or [any] similar error[s] or any omissions" and any "comments in respect of the written presentation of...[the] decision". The Court explicitly told the parties that this was not an invitation to revisit "the substance of his decision": see Appeal Book, Tab 9, p. 74.

[4] In response, the appellants filed a letter with the Tax Court seeking to do just that. It asked to reopen the trial so the Tax Court could "receive and consider...submissions" based on "the documents [that] were before the Court". In their notice of appeal in this Court, the appellants confirm that they wanted to make "further submissions" and "this [is] not a matter of new evidence".

[5] In response, the Tax Court refused to entertain any additional submissions. It considered that what the appellants wanted to raise was “a re-argument of the [tax] appeals”. It issued its final judgment and supporting reasons.

[6] The appellants now appeal to this Court. They say that in refusing to allow further submissions, the Tax Court committed a reversible error.

[7] We will dismiss the appeal. The appellants have not persuaded us that the Tax Court committed any reversible error.

[8] In asking the parties for comments, the Tax Court was looking for input on small, non-substantive things. It was not inviting the parties to apply to reopen the evidentiary portion of the trial or to provide further submissions on issues already argued.

[9] In substance, the Tax Court had decided the matter. Only after the Tax Court revealed the result of its decision by circulating its final judgment and supporting reasons did the appellants react by requesting to make further arguments. In these circumstances, the appellants’ request smacks as an attempt to appeal to the Tax Court to revisit a decision it had already made. The Tax Court did not commit any reversible error in declining to do so.

[10] The leading authority on a first-instance court reopening a trial is *671122 Ontario Ltd. v. Sagaz Industries*, 2001 SCC 59, [2001] 2 S.C.R. 983. Nothing here offends *Sagaz Industries*.

[11] In their notice of appeal in this Court, the appellants suggest, without particulars and almost as an afterthought, that the Tax Court “committed an error of law in the manner in which [it] dealt with the unchanged tax position in the [appellants’] 2012 taxation year” and that “the legal principles...[underlying that] were absent”. As well, both in their memorandum of fact and law and in oral argument, the appellants’ attacks on the Tax Court’s substantive decision-making are fleeting and unparticularized. For example, in their memorandum of fact and law, the appellants submit, again without particulars, that the result reached by the Tax Court is grossly unfair and a miscarriage of justice. On these things, based on the law and the evidentiary record before us, the appellant has not persuaded us that the Tax Court committed any reversible error in the substance of its decision.

[12] We wish to comment on the practice the Tax Court followed here. It is for the Tax Court alone—not the parties—to vet its judgment and supporting reasons for typographical, grammatical, punctuation and similar errors.

[13] Therefore, we will dismiss the appeal with costs.

“David Stratas”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-18-24

STYLE OF CAUSE: KHAIR MOHAMMAD
DOOSTYAR, SOMETIMES
KNOWN AS KHAIR
MOHAMMAD DOSTYAR, AND
1572680 ONTARIO INC v. HIS
MAJESTY THE KING

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JANUARY 13, 2025

**REASONS FOR JUDGMENT OF THE COURT
BY:** STRATAS J.A.
LOCKE J.A.
MACTAVISH J.A.

DELIVERED FROM THE BENCH BY: STRATAS J.A.

APPEARANCES:

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