

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250326

Docket: A-117-24

Citation: 2025 FCA 72

**CORAM: LASKIN J.A.
ROUSSEL J.A.
PAMEL J.A.**

BETWEEN:

EDWARD DEMCHYNSKI

Appellant

and

HIS MAJESTY THE KING

Respondent

Heard at Winnipeg, Manitoba, on March 26, 2025.
Judgment delivered from the Bench at Winnipeg, Manitoba, on March 26, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

PAMEL J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Winnipeg, Manitoba, on March 26, 2025).

PAMEL J.A.

[1] The appellant, Mr. Edward Demchynski, appeals a judgment of the Tax Court of Canada (per D'Arcy J.) dated February 14, 2024, which upheld in part the Minister of National Revenue's reassessment of Mr. Demchynski for unreported income for the 2009, 2010 and 2011 taxation years. The Tax Court found that Mr. Demchynski had failed to rebut the Minister's assumptions regarding his unreported income under a net worth basis.

[2] Mr. Demchynski argues that the Tax Court ignored or failed to give appropriate weight to what he describes as unchallenged and uncontradicted evidence, and that it gave weight to wholly irrelevant facts. In particular, Mr. Demchynski attempts to establish a contradiction in the manner in which the Tax Court dealt with the Minister's net worth analysis and assessed the evidence before it. Mr. Demchynski also raises a procedural fairness issue, *to wit*, that the Tax Court judge inappropriately interfered with his counsel's cross-examination of a Respondent's witness.

[3] The applicable standards of review in this appeal are those set out in *Housen v. Nikolaisen*, 2002 SCC 33: correctness for questions of law, and palpable and overriding error for questions of fact and questions of mixed fact and law, unless there is an extricable question of law, which is reviewable on a standard of correctness. As regards questions of procedural fairness, given that they are treated as legal questions, they are to be reviewed on a correctness standard.

[4] Mr. Demchynski has not persuaded us that the Tax Court made a palpable and overriding error in the assessment of the evidence. The possibility of alternative findings of fact as a result of the weight ascribed to the evidence does not amount to a palpable and overriding error (*Salomon v. Matte-Thompson*, 2019 SCC 14 (CanLII), [2019] 1 S.C.R. 729, at para. 33; *Nelson (City) v. Mowatt*, 2017 SCC 8, [2017] 1 S.C.R. 138, at para. 38). Moreover, we see no reason to interfere with the credibility findings of the Tax Court.

[5] As regards the assertion that the Tax Court judge improperly interfered with his counsel's cross-examination of a Respondent's witness, Mr. Demchynski has failed to demonstrate and articulate how the exchanges between the Tax Court judge and counsel resulted in unfairness to Mr. Demchynski or would have affected the outcome of the decision. The fact that Mr. Demchynski's counsel did not raise any objection at the time of the exchanges with the Tax Court also militates against his argument on this issue. (*Taseko Mines Limited v. Canada (Environment)*, 2019 FCA 320, at para. 46).

[6] For these reasons, the appeal will be dismissed, with costs payable by Mr. Demchynski to the Respondent fixed by agreement at \$3,200.

"Peter G. Pamel"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-117-24
STYLE OF CAUSE:	EDWARD DEMCHYNSKI v. HIS MAJESTY THE KING
PLACE OF HEARING:	Winnipeg, Manitoba
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REASONS FOR JUDGMENT OF THE COURT BY:	LASKIN J.A. ROUSSEL J.A. PAMEL J.A.
DELIVERED FROM THE BENCH BY:	PAMEL J.A.

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