

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250514

Docket: A-220-24

Citation: 2025 FCA 96

**CORAM: LEBLANC J.A.
 ROUSSEL J.A.
 HECKMAN J.A.**

BETWEEN:

HESHAM GHOBARAH

Appellant

and

HIS MAJESTY THE KING

Respondent

Heard at Toronto, Ontario, on May 14, 2025.
Judgment delivered from the Bench at Toronto, Ontario, on May 14, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

ROUSSEL J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on May 14, 2025).

ROUSSEL J.A.

[1] Mr. Ghobarah is appealing a judgment of the Tax Court of Canada rendered orally on May 27, 2024, that dismissed his appeal against the Minister of National Revenue's assessment of late filing penalties for the 2020 and 2021 taxation years. The Tax Court found that Mr.

Ghobarah was not an individual who carried on a business for the purposes of the filing deadline in clause 150(1)(d)(ii)(A) of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.) (ITA).

[2] The standard of review in this appeal is that of correctness for questions of law and palpable and overriding error for questions of fact and questions of mixed fact and law (*Housen v. Nikolaisen*, 2002 SCC 33). When the Court reviews issues of procedural fairness, its role is to determine whether the proceedings were fair in all of the circumstances (*Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69 at paras. 54-56).

[3] Mr. Ghobarah alleges before this Court that he was denied procedural fairness in the proceedings before the Tax Court. He raises a number of arguments relating to the Minister's reply and closing submissions, including that he was taken by surprise. We see no merit in his allegations. Based on the record before the Court, we are satisfied that Mr. Ghobarah knew the case he had to meet and that he was afforded ample opportunity to present his case. In fact, during the hearing, the Tax Court repeatedly explained the nature of the proceedings and the key issues to Mr. Ghobarah and provided him with multiple opportunities to respond and to demonstrate that he was carrying on a business in his own capacity.

[4] Mr. Ghobarah also argues that the Tax Court erred in dismissing his motion to strike portions of the Minister's reply. Mr. Ghobarah has not demonstrated a reviewable error in the Tax Court's consideration and determination of Mr. Ghobarah's motion. While the Minister's amended reply could have been more detailed, it provided sufficient information for Mr. Ghobarah to know the basis of the Minister's assessment and the case he had to meet.

[5] Finally, we see no basis to intervene in the Tax Court's conclusion that Mr. Ghobarah was an employee for the purposes of filing his income tax returns and therefore bound by the filing deadline provided in subparagraph 150(1)(d)(i) of the ITA. The Tax Court considered Mr. Ghobarah's arguments and properly found that he had failed to adduce sufficient evidence to demonstrate that he was carrying on a business on his own account. The employment income reported in Mr. Ghobarah's statements of remuneration paid (T4), the employment expenses claimed, the lack of reported income from business activities and the existence of a payroll account demonstrated the contrary.

[6] Accordingly, the appeal will be dismissed without costs.

"Sylvie E. Roussel"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-220-24
STYLE OF CAUSE:	HESHAM GHOBARAH v. HIS MAJESTY THE KING
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MAY 14, 2025
REASONS FOR JUDGMENT OF THE COURT BY:	LEBLANC J.A. ROUSSEL J.A. HECKMAN J.A.
DELIVERED FROM THE BENCH BY:	ROUSSEL J.A.

APPEARANCES:

Hesham Ghobarah	ON HIS OWN BEHALF
Jacky Chiu Katie Beahen	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Shalene Curtis-Micallef Deputy Attorney General of Canada	FOR THE RESPONDENT
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