

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20140211**

**Docket: A-70-13**

**Citation: 2014 FCA 39**

**CORAM: NOËL J.A.  
MAINVILLE J.A.  
WEBB J.A.**

**BETWEEN:**

**JASVIR KAUR SAHOTA**

**Appellant**

**and**

**CANADA BORDER SERVICES AGENCY, and  
ATTORNEY GENERAL OF CANADA**

**Respondents**

Heard at Vancouver, British Columbia, on February 11, 2014.

Judgment delivered from the Bench at Vancouver, British Columbia, on February 11, 2014.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**MAINVILLE J.A.**

Federal Court of Appeal



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**REASONS FOR JUDGMENT OF THE COURT**

(Delivered from the Bench at Vancouver, British Columbia, on February 11, 2014).

**MAINVILLE J.A.**

[1] This is an appeal from an unreported order of Hansen J. of the Federal Court reached after trial and which dismissed the appellant's action for damages following the decision of the Canada Border Services Agency (CBSA) to inspect her container of tiles imported from India. The inspection disclosed that the wood packaging contained insect larvae. The container was ordered fumigated and removed from Canada.

[2] The appellant claims that the container was released prior to inspection by CBSA when she paid the duties and a receipt was issued from a customs officer stamped “released”. As a result, the appellant claims that the CBSA had no statutory authority to inspect the container under paragraph 99(1)(a) of the *Customs Act*, R.S.C., 1985, c. 1 (2<sup>nd</sup> Supp.). The appellant adds that insofar as CBSA relies on paragraph 99(1)(f) of the *Customs Act* for the inspection, then it must have had reasonable grounds to suspect that the *Customs Act*, the regulations or any other Act of Parliament has been or might have been contravened. The appellant asserts that CBSA has failed to show that such reasonable grounds to suspect were present.

[3] In our view, it is not necessary to determine whether or not the appellant’s container was released under the meaning of the *Customs Act*, since in any event, the CBSA had reasonable grounds to suspect that the container could present a problem in violation of federal legislation in light of the fact that this was a first time importer/exporter and that the container had wood packaging which had been known to carry pests. In the context of the *Customs Act*, the threshold for reasonable grounds to suspect is low: *R. v. Jacques*, [1996] 3 S.C.R. 312 at paras. 18 to 25, *R. v. Simmons*, [1988] 2 S.C.R. 495, *R. v. Sekhon*, 2009 BCCA 187, 189 C.R.R. (2d) 176 at paras. 68, 84 to 88, 93 to 95, and *R. v. McKay* (1992), [1993] 3 W.W.R. 9, 5 Alta. L.R. (3d) 335. In our view, this threshold was met in this case.

[4] Despite the able arguments of counsel for the appellant, we will consequently dismiss the appeal, with costs.

"Robert M. Mainville"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-70-13

**(APPEAL FROM AN ORDER OF THE HONOURABLE MADAM JUSTICE HANSEN OF THE FEDERAL COURT DATED JANUARY 25, 2013, DOCKET NO. T-1504-10.)**

**STYLE OF CAUSE:** JASVIR KAUR SAHOTA v.  
CANADA BORDER SERVICES  
AGENCY, and ATTORNEY  
GENERAL OF CANADA

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** FEBRUARY 11, 2014

**REASONS FOR JUDGMENT OF THE COURT BY:** NOËL J.A.  
MAINVILLE J.A.  
WEBB J.A.

**DELIVERED FROM THE BENCH BY:**  
MAINVILLE J.A.

**APPEARANCES:**

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