

2000-2392(IT)I

BETWEEN:

ROMAN J. KIPRENKO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on November 2, 2000 at Calgary, Alberta by
the Honourable Judge D.W. Beaubier

Appearances

For the Appellant:

The Appellant himself

Counsel for the Respondent:

Perry Derksen

JUDGMENT

The appeal from the reassessment made under the Income Tax Act for the 1998 taxation year is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada this 9 day of November, 2000.

"D.W. Beaubier"

J.T.C.C.

Date: 20001109
Docket: 2000-2392(IT)I

BETWEEN:

ROMAN J. KIPRENKO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Beaubier, J.T.C.C.

[1] This appeal under the Informal Procedure was heard at Calgary, Alberta on November 2, 2000. The Appellant was the only witness.

[2] The Appellant has appealed the disallowance of a claim respecting \$14,980 which he paid as tuition that year. Paragraphs 8 to 10 of the Reply to the Notice of Appeal read:

8. The Minister confirmed the reassessment by means of a Notice of Confirmation dated March 15, 2000.

9. In so reassessing the Appellant, the Minister made the following assumptions of fact:

- (a) during the 1998 taxation year, the Appellant attended full-time training courses through SHL Learning Technologies in Calgary;
- (b) during the 1998 taxation year, SHL Learning Technologies in Calgary was not an educational institution certified by the Minister of Human

Resources to be an educational institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation.

- (c) tuition fees paid to SHL Learning Technologies in Calgary, during the 1998 taxation year, totaled \$14,980.00.

B. ISSUES TO BE DECIDED

10. The issue to be decided is whether the Appellant is entitled to an amount for tuition fees as defined by subsection 118.5(1) of the *Income Tax Act* (the *Act*) in computation of his non-refundable tax credits for the 1998 taxation year.

The assumptions were not refuted.

[3] The Appellant entered the course having taken such courses before from other learning institutions from which he received income tax claimable receipts. He received such a receipt from SHL Learning Technologies' successor corporation for the said \$14,980 which he had paid as fees for the course. However his claim for this was disallowed as stated in the Reply quoted. Similarly, the Appellant was advised by an SHL supervisor that the supervisor thought that the Calgary facility was certified for income tax purposes.

[4] Paragraphs 4 to 7 inclusive of the Affidavit of Pierrette Thibodeau filed by the Respondent in this case set out the reason why the Appellant's claim for fees was disallowed. It reads:

4. I have reviewed the list and verily believe to be true that SHL Computer Innovations Inc. DBA SHL Learning Technologies operating in Calgary, Alberta was not an educational institution certified by the Minister at any time during 1998 pursuant to subparagraph 118.5(1)(a)(ii) of the Act.

5. I have reviewed the list and verily believe to be true that General Physics of Canada DBA G.P. Learning Technologies operating in Calgary, Alberta was not an educational institution certified by the Minister at any time during 1998 pursuant to subparagraph 118.5(1)(a)(ii) of the Act.

6. The Minister requires educational institutions that apply to be certified pursuant to subparagraph 118.5(1)(a)(ii) of the Act to

be provincially licensed as a private vocational, trade school, or the equivalent, if that is a requirement of the province where the courses are given.

7. Where an institution operates in a number of provinces or in a number of cities in a particular province, the Minister certifies by the location where the courses are given, with the result that an educational institution offering a course in a particular location might be certified but the same educational institution might not be certified in respect to a different location. This method of certification ensures that provincial licensing requirements are met and it also ensures that institutions operating as franchises are properly certified.

[5] Subparagraph 118.5(1)(a)(ii) of the Income Tax Act requires that the educational institution must be certified by the Minister of Human Resources. It was not.

[6] The Income Tax Act is specific. Certification did not exist. Therefore, the appeal is dismissed.

Signed at Ottawa, Canada this 9 day of November, 2000.

"D.W. Beaubier"

J.T.C.C.

COURT FILE NO.: 2000-2392(IT)I

STYLE OF CAUSE: Roman J. Kiprenko v. Her Majesty the Queen

PLACE OF HEARING: Calgary, Alberta

DATE OF HEARING: November 2, 2000

REASONS FOR JUDGMENT BY: The Honourable Judge D.W. Beaubier

DATE OF JUDGMENT: November 9, 2000

APPEARANCES:

Counsel for the Appellant:

Counsel for the Respondent: Perry Derksen

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent:

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