

Citation: 2003TCC447
Date: 20030722
Docket: 2002-3909(IT)APP

BETWEEN:

DONALD DEWEY,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

(Delivered orally from the Bench at
Saskatoon, Saskatchewan, on February 5, 2003)

[1] This application for an extension of time in which to file an appeal was heard at Saskatoon, Saskatchewan on February 4, 2003. The Applicant and his wife, Evelyn both testified.

[2] The proposed appeal is in relation to the disallowance of a standard bred horse breeding and apparently racing operation that the Applicant operates from Martensville, Saskatchewan, a suburb about 20 kilometres north of Saskatoon.

[3] The chronology of this matter (based upon Exhibit A-1, the Applicant's file) is as follows:

1. August 31, 2001

Notice of Confirmation for 1997, 1998 and 1999 is mailed to the Applicant.

From the material on the file it appears that he had no income at all during those years from the standard bred horse breeding and/or racing operation.

2. Shortly after August 31, 2001

The Applicant, or his wife, spoke to their accountant who said in essence, that there was no use appealing.

3. January 11 and May 5, 2002

Collection notices are sent by CCRA to the Applicant.

4. May 25, 2002

Applicant's dated copy of National Post article respecting the Supreme Court of Canada decisions on reasonable expectation of profit are contained in his file.

5. June 18, 2002

CCRA wrote the Applicant with instructions to appeal and the method of appealing.

6. September 25, 2002

Dated letter has notes on it about "switch board" and "975-5530". The Applicant's testimony is that phone calls in relation to these matters occurred whereupon he contacted the Tax Court and filed the application.

7. October 10, 2002

This application is filed in the Tax Court.

[4] The Applicant and his wife gave disjointed testimony which confirmed the foregoing dates generally. However, the testimony is also interpreted by the Court to establish that the Applicant did not appeal after discussing the confirmation with his accountant. At that time, the Applicant and his wife knew that they could appeal and chose not to do so, nor did they appeal after the June 18th, 2002 letter from CCRA. They only began to think again about appealing after collection began, and in particular any GST benefit entitlement is denied.

[5] On the evidence, the Applicant, one, was able to appeal at all material times; two, had no intention of appealing until around early October 2002. In particular, immediately after June 18, 2002 he did not proceed upon CCRA's direct instructions. Three, the Applicant has not established reasonable grounds for the appeal.

[6] In the foregoing circumstances, the Applicant has not established sufficient grounds to grant the application. It is dismissed.

Signed at Vancouver, British Columbia, this 22nd day of July 2003.

"D.W. Beaubier"

Beaubier, J.