

Docket: 2004-1151(IT)APP

BETWEEN:

NABIL ATTIA,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Application heard on July 5, 2004 at Toronto, Ontario

Before: The Honourable Justice L.M. Little

Appearances:

For the Applicant:

The Applicant himself

Counsel for the Respondent:

Eric Sherbert

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**ORDER**

Upon application for an Order extending the time within which Notices of Objection to the assessments made under the *Income Tax Act* for the 1991 and 1992 taxation years may be served;

And upon hearing what was alleged by the parties;

The time within which Notices of Objection may be served is extended to the date of this Order and the Notices of Objection received with the application herein are regarded as validly served in accordance with the attached Reasons for Order.

Signed at Toronto, Ontario, this 8th day of July 2004.

"L.M. Little"

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Little J.

Citation: 2004TCC489  
Date: 20040708  
Docket: 2004-1151(IT)APP

BETWEEN:

NABIL ATTIA,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR ORDER**

#### **Little J.**

A. Statement of Facts:

[1] In 1990, 1991 and 1992 the Applicant was employed by First Choice Catering Inc.

[2] On October 22, 1996 the Minister of National Revenue (the "Minister") issued Notices of Reassessment (the "Reassessments") for the Applicant's 1991 and 1992 taxation years.

[3] The Applicant maintains that he filed Notices of Objection to the Reassessments. The Applicant testified that on December 9, 1996 he sent a copy of the Notices of Objection to Mr. Gordon Head of the Canada Revenue Agency ("CRA") at 875 Heron Road, Ottawa by registered mail (see Exhibit A-3).

[4] The Applicant also testified that on December 14, 1996 he sent a copy of the Notices of Objection to the CRA by fax.

[5] The Applicant further testified that he sent a copy of the Notices of Objection to the CRA by regular mail on January 4, 1997.

[6] The Applicant said that he had numerous discussions by telephone concerning the Notices of Objection with Mr. Gordon Head and other officials of the CRA after he filed the Notices of Objection. The Applicant testified that these telephone discussions with officials of the CRA were made by him commencing on December 8, 1996 and at various times throughout 1997, 1998, 1999, 2000, 2001, 2002, 2003 and 2004 (see Exhibit A-2).

[7] Officials of the CRA maintain that they have no record of having received the Notices of Objection that the Applicant claims that he filed in December 1996 and January 1997 for the 1991 and 1992 taxation years.

[8] Mr. Warren O'Dwyer, an official of the CRA, testified that the Kitchener Office of the CRA received Notices of Objection from the Applicant for the 1991 and 1992 taxation years on September 11, 2003 (see Exhibit R-1).

[9] On March 25, 2004 the Applicant filed with the Tax Court of Canada an Application for an Order extending the time within which Notices of Objection may be filed to the Reassessments issued for the 1991 and 1992 taxation years.

B. Issue:

[10] Should the Applicant's application be granted?

C. Analysis:

[11] After examining the documents that were filed by the Applicant and carefully considering the testimony of the Applicant I have concluded that the Applicant filed valid Notices of Objection for the 1991 and 1992 taxation years on December 4, 1996.

[12] The application is granted, without costs.

Signed at Toronto, Ontario, this 8th day of July 2004.

"L.M. Little"

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Little J.

CITATION: 2004TCC489

COURT FILE NO.: 2004-1151(IT)APP

STYLE OF CAUSE: Nabil Attia and Her Majesty the Queen

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: July 5, 2004

REASONS FOR ORDER BY: The Honourable Justice L.M. Little

DATE OF ORDER: July 8, 2004

APPEARANCES:

For the Applicant: The Applicant himself

Counsel for the Respondent: Eric Sherbert

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: Morris Rosenberg  
Deputy Attorney General of Canada  
Ottawa, Canada