

Docket: 2006-2353(IT)G

BETWEEN:

507582 B.C. L.T.D.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Docket: 2006-2354(IT)G

AND BETWEEN:

JOHN FRANK KRMPOTIC,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence on March 6, 2008
at Vancouver, British Columbia
Before: The Honourable Justice T.E. Margeson

Appearances:

Counsel for the Appellant: Alistair Campbell

Counsel for the Respondent: Susan Wong

ORDER AND REASONS FOR ORDER REGARDING COSTS

When the Court wrote its initial judgment it had intended to award one set of costs only, but inadvertently failed to do so.

Upon receipt of the judgment, counsel for the Respondent noted that the Court had awarded two sets of costs and opined that, under the circumstances, only one set of costs should be awarded.

Counsel for the Appellant replied to their position and advised the Court that a settlement offer had been made to the Respondent before trial, which was not accepted by the Respondent. This settlement proposal, if it had been accepted, would have put the Respondent in a better position than that which resulted after the trial had been held.

Counsel also referred to the decision of Justice Miller in *Jaques v. The Queen*, [2007] 2 C.T.C. 2445, where the same issue was canvassed and where the Court concluded that two sets of costs were warranted.

I find that the facts of the present cases put the situation somewhere in between that found in *Jaques, supra*, and the position argued by both parties here.

After considering all of the factors, the Court is satisfied that two sets of costs are not warranted. In the case at bar there was essentially one issue that was determinative of all three cases that were heard.

However the Appellant's counsel had to consider that there were three different assessments, three different notices of appeal, three replies and two statutes. Additionally, the Appellants did make an offer of settlement that was rejected, as above indicated.

The Court, having considered the provisions of Rule 147 of the *Tax Court of Canada Rules (General Procedure)* is satisfied that a proper disposition of these matters is to order one set of costs, in the appeals of *John Frank Krmptic* (2006-2354(IT)G) and *507582 B.C. Ltd.* (2006-2353(IT)G), but to order that once the costs have been calculated, that those costs shall be increased by 40%.

Signed at New Glasgow, Nova Scotia, this 7th day of August 2008.

“T. E. Margeson”

Margeson J.

CITATION: 2008TCC447
COURT FILE NO.: 2006-2353(IT)G
STYLE OF CAUSE: 507582 B.C. L.T.D. AND THE QUEEN
PLACE OF HEARING: Vancouver , British Columbia
DATE OF HEARING: March 6, 2008
REASONS FOR ORDER BY: The Honourable Justice T.E. Margeson
DATE OF ORDER: August 7, 2008

APPEARANCES:

Counsel for the Appellant: Alistair Campbell
Counsel for the Respondent: Susan Wong

COUNSEL OF RECORD:

For the Appellant:

Name: Alistair Campbell
Firm: Legacy Tax + Trust Lawyers
Vancouver, B.C.

For the Respondent:

John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Canada