

Docket: 2008-2414(IT)I

BETWEEN:

ALBERTA PRINTED CIRCUITS LTD.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on January 21, 2009 at Calgary, Alberta

Before: The Honourable Justice G. A. Sheridan

Appearances:

Agent for the Appellant:

Dan McMuldroy

Counsel for the Respondent:

Robert Neilson

AMENDED JUDGMENT

In accordance with the attached **Amended** Reasons for Judgment, the appeal from the assessment made under the *Income Tax Act* for the 2005 taxation year is allowed, and the matter is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that consulting fees of \$28,732 were current expenses for tax purposes, **and on the basis that professional fees of \$4,850 were fully deductible as a business expense by the Appellant.**

IT IS FURTHER ORDERED that the filing fee of \$100 be refunded to the Appellant.

Signed at Ottawa, Canada, this **21st** day of April, 2009.

“G. A. Sheridan”

Sheridan, J.

Citation: 2009TCC195
Date: 20090421
Docket: 2008-2414(IT)I

BETWEEN:

ALBERTA PRINTED CIRCUITS LTD.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

AMENDED REASONS FOR JUDGMENT

Sheridan, J.

[1] The issue in this appeal is whether certain expenses incurred for work the Appellant, Alberta Printed Circuits Ltd., had done on its manufacturing equipment was a capital expenditure or a current expense¹. In concluding that the cost was capital in nature, the Minister of National Revenue relied on the description of the work given to the auditor by one of the Appellant's two shareholders, the wife of the former owner of the business; she said that a consultant had been hired "to refurbish" the equipment.

[2] If nothing else, this case proves the importance of choosing our words carefully.

[3] The other shareholder and directing mind of the Appellant, Mr. Dan McMuldloch, represented the Appellant and testified at the hearing. He also called as a witness the consultant the company had hired to do the work, Mr. Jim Godfrey. Both were entirely credible and did a masterful job of making comprehensible the process by which the Appellant makes circuit boards. It requires specialized staff trained in the use of specialized equipment²; the equipment itself has

¹ Counsel for the Respondent advised at the commencement of the hearing that the disallowance of professional fees was no longer in issue.

² Exhibits A-1, A-2 and A-3.

to be built to suit since, according to Mr. McMuldloch's information, it is not commercially available in Canada.

[4] The Respondent called the Appeals Officer, Ms. Nancy Jackson, whose evidence was equally candid and credible.

[5] The relevant aspect of the Appellant's manufacturing process is that it requires the use of very caustic chemicals. These chemicals have a highly corrosive effect on the equipment used in the process as well as on the environment in which the Appellant's employees work. As a result, constant monitoring and maintenance is required to ensure there has been no material deterioration in the equipment, that there are no leaks and that the safety of the staff is not compromised. Enter Mr. Godfrey.

[6] Mr. Godfrey has expertise in both refurbishing and repairing the equipment used in electroless plating, the process by which non-conductive surfaces such as plastic can be plated with metals by chemical, rather than electrolytic, means. I accept without hesitation his evidence that he worked on the Appellant's equipment from July to November, 2004. At that time, the equipment was already connected and installed; Mr. Godfrey was familiar with it from his earlier role as a kind of mentor to the former owner of the Appellant (the husband of the shareholder interviewed by the auditor). I am satisfied that he did not install any of the equipment in the taxation year and that the work he did on the equipment was for repair rather than refurbishment. It became apparent during his testimony that some of the confusion regarding the nature of his work stemmed from the fact that about two months after the completion of his repair work on the existing equipment, Mr. Godfrey sold and installed some *other* equipment to the Appellant. Given the complex nature of the process, I can understand why Ms. Jackson, the Appeals Officer, volunteered that the exact nature of the services provided by Mr. Godfrey were not clear at the appeals stage.

[7] For the reasons set out above, the appeal is allowed and the matter is referred back to the Minister for reconsideration and reassessment on the basis that consulting fees of \$28,732 were current expenses for tax purposes, **and on the basis that professional fees of \$4,850 were fully deductible as a business expense by the Appellant.**

The Amended Judgment and Amended Reasons for Judgment is issued in substitution for the Judgment and Reasons for Judgment dated April 7, 2009.

Signed at Ottawa, Canada, this **21st** day of April, 2009.

“G. A. Sheridan”

Sheridan, J.

CITATION: 2009TCC195
COURT FILE NO.: 2008-2414(IT)I
STYLE OF CAUSE: ALBERTA PRINTED CIRCUITS LTD.
AND HER MAJESTY THE QUEEN

PLACE OF HEARING: Calgary, Alberta

DATE OF HEARING: January 21, 2009

**AMENDED REASONS
FOR JUDGMENT BY:** The Honourable Justice G. A. Sheridan

DATE OF
AMENDED JUDGMENT: April 21, 2009

APPEARANCES:

Agent for the Appellant: Dan McMuldroch

Counsel for the Respondent: Robert Neilson

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent:

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