

Docket: 2008-3216(GST)I

BETWEEN:

ALAN CHAMBERS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on March 19, 2009 at Calgary, Alberta

Before: The Honourable Justice G. A. Sheridan

Appearances:

Agent for the Appellant: Raymond Grue

Counsel for the Respondent: Whitney Dunn

JUDGMENT

In accordance with the attached Reasons for Judgment, the appeal from the reassessment dated April 18, 2008 made under the *Excise Tax Act*, is dismissed.

Signed at Ottawa, Canada, this 9th day of April, 2009.

“G. A. Sheridan”

Sheridan, J.

Citation: 2009TCC186
Date: 20090409
Docket: 2008-3216(GST)I

BETWEEN:

ALAN CHAMBERS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Sheridan, J.

[1] The Appellant, Alan Chambers, is appealing the assessment of the Minister of National Revenue under the *Excise Tax Act* for the period ending December 31, 2005. The Minister assessed Goods and Services Tax of \$2,743.82 in respect of his work as a commissioned sales agent for Sports Display of Canada Inc. A non-resident registrant under the *Act*, Sports Display of Canada Inc. engages sales agents to sell advertising on a commission basis across Canada.

[2] The Appellant's sales area was British Columbia, Alberta and Saskatchewan. Upon making a sale, he would prepare an invoice on Sports Display of Canada Inc. letterhead showing the price of the advertising and the GST payable on the sale, collect a cheque or credit card slip for the full amount made payable to Sports Display of Canada Inc. and then, send all of that documentation to the company. He received a commission of 30% of gross sales from Sports Display of Canada Inc.

[3] During the period in question, the Appellant received \$39,137.37 in commissions on advertising sales made for Sports Display of Canada Inc. He explained that because he had no head for accounting, never mind the *Excise Tax Act*, he had retained the services of a local accountant to handle the bookkeeping side of

his work. This person handled all GST matters, including registering the Appellant for GST and claiming ITCs. What he seems not to have done was to report or remit the GST that was collectible on the Appellant's commission sales which, for the period, totalled \$2,743.82.

[4] The Appellant testified that he had been assured by both his accountant and Sports Display of Canada Inc. that he need not worry about remitting GST in respect of his commissioned sales. He was later to learn that the Minister took a different view of things.

[5] Both the Appellant and his (new) accounting professional, Raymond Grue, testified at the hearing. Mr. Grue also presented legal submissions on the Appellant's behalf; at the conclusion of Mr. Grue's remarks, the Appellant made a statement of his own. In neither their evidence nor their submissions, however, did Mr. Grue or the Appellant address directly the Minister's contention that under the *Excise Tax Act*, two separate supplies had been made, the sale of advertising by Sports Display of Canada Inc. (through its agent, the Appellant) to its customer; and the provision of the Appellant's commission sales services to Sports Display of Canada Inc. The Minister admits that the Appellant collected GST in the first instance; only the GST on his commission sales services is in issue.

[6] The Appellant used his appeal not so much to challenge the GST assessment (which, I think, he now accepts he was required to report and remit in the amount assessed) but rather to use as a venue to make public other aspects of the situation in which he found himself. Given this goal, at the conclusion of the hearing, I reserved my judgment but responded to these other issues by explaining to him that this Court does not have jurisdiction to look into allegations of misconduct by the accounting profession and that, in any case, he cannot avoid liability for his obligations under the *Excise Tax Act* by claiming reliance on bad advice. Nor does this Court have any authority to change policy or the legislation itself; the proper forum for the Appellant's concerns regarding the complexity of the *Excise Tax Act* and the difficulty average taxpayers like himself¹ have in trying to comply with it, is the Parliament of Canada through its elected representatives.

[7] As the Appellant has not proven wrong the basis for the Minister's assessment under the *Excise Tax Act*, the appeal is dismissed.

Signed at Ottawa, Canada, this 9th day of April, 2009.

¹ As he put it, "I wouldn't know an ITC if it bit me."

“G. A. Sheridan”

Sheridan, J.

CITATION: 2009TCC186
COURT FILE NO.: 2008-3216(GST)I
STYLE OF CAUSE: ALAN CHAMBERS AND HER MAJESTY
THE QUEEN
PLACE OF HEARING: Calgary, Alberta
DATE OF HEARING: March 19, 2009
REASONS FOR JUDGMENT BY: The Honourable Justice G. A. Sheridan
DATE OF JUDGMENT: April 9, 2009

APPEARANCES:

Agent for the Appellant: Raymond Grue

Counsel for the Respondent: Whitney Dunn

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent:

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