

Docket: 2007-2783(GST)I

BETWEEN:

DEAN MAZZARIOL, ANTHONY BUCCELLA and LIDIA MAZZARIOL
Operating as Mazcom Print,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on March 10, 2009, at Toronto, Ontario.

Before: The Honourable Justice B. Paris

Appearances:

Agent for the Appellant: Kay Bond
Counsel for the Respondent: Ian Theil

JUDGMENT

The appeal from the assessment made under the *Excise Tax Act*, notice of which is dated May 18, 2006, and bears number 05DP0125234 for the period January 1, 1994 to December 31, 2001, is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 24th day of March 2009.

“B.Paris”

Paris J.

Citation: 2009 TCC 169
Date: 20090324
Docket: 2007-2783(GST)I

BETWEEN:

DEAN MAZZARIOL, ANTHONY BUCCELLA and LIDIA MAZZARIOL
Operating as Mazcom Print,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Paris, J.

[1] The Appellant is appealing from an assessment dated May 18, 2006 for unremitted GST, and related interest and penalties for the period January 1, 1994 to December 31, 2001.

[2] The Appellant contends that the Minister should have waived the penalties and interest that were imposed because the Appellant made a voluntary disclosure to the Minister in February 2004 that tax was owing. The Minister held that the Appellant was not entitled to a waiver of penalties and interest because the voluntary disclosure was only in respect of tax owing under the *Income Tax Act* and was not made “for GST purposes.”

[3] It is clear that this Court does not have jurisdiction to review the Minister’s exercise of his discretion under section 281.1 of the *Excise Tax Act* to waive penalties or interest. The appeal must therefore be dismissed.

[4] However, I am satisfied that the Appellant intended the voluntary disclosure made in February 2004 to have been made for the purposes of both the *Income Tax Act* and the *Excise Tax Act*, and I would therefore strongly recommend that the Minister exercise his discretion to waive penalties and interest in this case for the periods for which it is open to him to do so.

Signed at Ottawa, Canada, this 24th day of March 2009.

“B.Paris”

Paris J.

CITATION: 2009 TCC 169

COURT FILE NO.: 2007-2783(GST)I

STYLE OF CAUSE: DEAN MAZZARIOL, ANTHONY
BUCCELLA and LIDIA MAZZARIOL
Operating as Mazcom Print AND HER
MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: March 10, 2009

REASONS FOR JUDGMENT BY: The Honourable Justice B. Paris

DATE OF JUDGMENT: March 24, 2009

APPEARANCES:

| | |
|-----------------------------|-----------|
| Agent for the Appellant: | Kay Bond |
| Counsel for the Respondent: | Ian Theil |

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Canada