

Docket: 2012-624(IT)I

BETWEEN:

AMEIR AMEIR,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Motion heard on June 7, 2012, at Edmonton, Alberta

Before: The Honourable Justice Wyman W. Webb

Appearances:

For the Appellant:                   The Appellant Himself  
Counsel for the Respondent:       Paige Atkinson

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**ORDER**

The Respondent's Motion to quash the Appellant's appeals under the *Income Tax Act* (the "ITA") in relation to the reassessments issued for his 2006 and 2007 taxation years is dismissed, without costs. The Respondent shall have until August 24, 2012 to file a Reply in relation to these appeals under the *ITA*.

Signed at Toronto, Ontario, this 22<sup>nd</sup> day of June 2012.

“Wyman W. Webb”

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Webb J.

Docket: 2012-625(GST)I

BETWEEN:

AMEIR AMEIR,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Motion heard on June 7, 2012, at Edmonton, Alberta

Before: The Honourable Justice Wyman W. Webb

Appearances:

For the Appellant:                      The Appellant Himself  
Counsel for the Respondent:        Paige Atkinson

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**ORDER**

The Respondent's Motion to quash the Appellant's appeals under the *Excise Tax Act* in relation to the reassessments issued for the reporting periods from April 3, 2006 to December 31, 2006 and from January 1, 2007 to December 31, 2007 is granted, without costs, and these appeals are quashed.

Signed at Toronto, Ontario, this 22<sup>nd</sup> day of June 2012.

“Wyman W. Webb”

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Webb J.

Citation: 2012TCC228  
Date: 20120622  
Dockets: 2012-624(IT)I  
2012-625(GST)I

BETWEEN:

AMEIR AMEIR,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR ORDER**

Webb J.

[1] The Respondent brought Motions to quash the Appellant's appeals under the *Income Tax Act* (the "ITA") in relation to the reassessments issued for his 2006 and 2007 taxation years and the *Excise Tax Act* (the "ETA") in relation to the reassessments issued for the reporting periods from April 3, 2006 to December 31, 2006 (the "2006 Reporting Period") and from January 1, 2007 to December 31, 2007 (the "2007 Reporting Period"). The basis for each Motion was that the Appellant had not filed notices of objection within the required time periods under the *ITA* or the *ETA*. Each statute provides that a person who chooses to object to an assessment (or a reassessment) must do so within 90 days of such assessment (or reassessment)<sup>1</sup> or make an application to extend the time for serving such objection<sup>2</sup>.

[2] The Appellant was reassessed under the *ITA* in relation to his 2006 and 2007 taxation years by notices of reassessment dated April 29, 2010. The Appellant was reassessed under the *ETA* in relation to the 2006 Reporting Period by a Notice of

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<sup>1</sup> Subsection 165(1) of the *ITA* and subsection 301(1.1) of the *ETA*.

<sup>2</sup> Section 166.1 of the *ITA* and section 303 of the *ETA*.

Reassessment dated November 21, 2007 and in relation to the 2007 Reporting Period by a Notice of Reassessment dated April 19, 2010.

[3] At the hearing of the Motion, the Appellant testified that he sent an objection to three different places on July 21, 2010 – the Board of Revision in Winnipeg, this Court in Edmonton and the Chief of Appeals for the Canada Revenue Agency in Winnipeg. A copy of the letter addressed to the Board of Revision was attached to the Affidavit filed by the Respondent. I accept the Appellant's testimony that one of the persons to whom he sent his objection was the Chief of Appeals for the Canada Revenue Agency in Winnipeg.

[4] Since the Notice of Objection was sent within 90 days from the date of the Notices of Reassessment issued under the *ITA* (April 29, 2010), the Appellant had filed Notices of Objection to these reassessments within the time period permitted under the *ITA*. As well since the Minister did not confirm or reassess (the Minister does not have any record of receiving this notice of objection) and since more than 90 days have elapsed since that notice of objection was served, the Appellant had the right to appeal to this Court under subsection 169(1) of the *ITA* when he filed his Notice of Appeal on February 8, 2012. Therefore the Respondent's Motion to quash the Appellant's appeals under the *ITA* is dismissed and the Respondent shall have until August 24, 2012 to file a Reply.

[5] However, the Notices of Reassessment issued under the *ETA* were sent more than 90 days before the Appellant sent his Notice of Objection on July 21, 2010. The Notice of Reassessment for the 2006 Reporting Period was sent on November 21, 2007 and therefore the Appellant, on July 21, 2010, could not have served a valid notice of objection, nor could he, at that time, have requested an extension of time to serve a notice of objection. The time within which an application must be made for an extension of time is within one year after the expiration of the time within which a notice of objection could be served (without an extension of time). This would mean that the time within which an application could have been made to extend the time to serve a notice of objection in relation to the 2006 Reporting Period was one year and 90 days from November 21, 2007 (which expired long before July 21, 2010). Since there is no valid notice of objection in relation to the reassessment issued for the 2006 Reporting Period, this appeal is quashed.

[6] The Notice of Reassessment for the 2007 Reporting Period was sent on April 19, 2010. While the ninety day period within which the Appellant could have served a notice of objection (without an extension of time) had expired by July 21, 2010, the Appellant could have applied to the Minister for an extension of time to

serve the notice of objection. However, without such application having been granted either by the Minister under section 303 of the *ETA* or by this Court under section 304 of the *ETA*, the Appellant does not have a valid notice of objection in relation to the reassessment issued for the 2007 Reporting Period.

[7] In order to appeal to this Court under the *ETA* the Appellant must have served a valid notice of objection<sup>3</sup>. Since the Notice of Objection in relation to the reassessment issued for the 2007 Reporting Period was not served within 90 days of the date of this reassessment and since neither the Minister under section 303 of the *ETA* nor this Court under section 304 of the *ETA* have granted an application to extend the time to serve a notice of objection in relation to this reassessment, the Appellant does not have a valid notice of objection in relation to the reassessment issued for the 2007 Reporting Period. The Appellant's appeal under the *ETA* in relation to the reassessment issued for the 2007 Reporting Period is therefore quashed.

[8] As a result, the Respondent's Motion to quash the Appellant's appeals under the *ITA* in relation to the reassessments issued for his 2006 and 2007 taxation years is dismissed, without costs. The Respondent shall have until August 24, 2012 to file a Reply in relation to these appeals under the *ITA*.

[9] The Respondent's Motion to quash the Appellant's appeals under the *ETA* in relation to the reassessments issued for the 2006 Reporting Period and for the 2007 Reporting Period is granted, without costs, and these appeals are quashed.

Signed at Toronto, Ontario, this 22<sup>nd</sup> day of June 2012.

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"Wyman W. Webb"

Webb J.

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<sup>3</sup> Section 306 of the *ETA*.

CITATION: 2012TCC228

COURT FILE NOS.: 2012-624(IT)I; 2012-625(GST)I

STYLE OF CAUSE: AMEIR AMEIR AND HER MAJESTY THE QUEEN

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: June 7, 2012

REASONS FOR ORDER BY: The Honourable Justice Wyman W. Webb

DATE OF ORDER: June 22, 2012

APPEARANCES:

For the Appellant:	The Appellant Himself
Counsel for the Respondent:	Paige Atkinson

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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