

BETWEEN:

AAR MORTGAGE CORPORATION,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Motion disposed of upon written representations

Before: The Honourable Justice Gabrielle St-Hilaire

Appearances:

Agent for the Appellant: Ashish Thawani  
Counsel for the Respondent: Larissa Benham

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**ORDER**

Whereas the Appellant brought a motion pursuant to Rule 30(2) of the *Tax Court of Canada Rules (General Procedure)* to be represented in its general procedure appeal by its president, Ashish Thawani, a non-lawyer;

And whereas the Appellant requests that the motion be disposed of upon consideration of written representations and without appearance by the parties;

And whereas the Respondent requests that this motion be held in abeyance pending the decision in *The Queen v. BCS Group Services Inc.* (file A-204-18), a case pending in the Federal Court of Appeal and alternatively, opposes the motion;

Upon consideration of the parties' written representations;

It is ordered that the application be held in abeyance until the Federal Court of Appeal has rendered its decision in *The Queen v. BCS Group Services Inc.*

Signed at Ottawa, Canada, this 18th day of July 2019.

“Gabrielle St-Hilaire”

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St-Hilaire J.

Citation: 2019 TCC 154  
Date: 20190718  
Docket: 2019-1709(IT)G

BETWEEN:

AAR MORTGAGE CORPORATION,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR ORDER**

St-Hilaire J.

[1] The Appellant brought a motion to request that, Ashish Thawani, who is the Appellant's president and not a lawyer, represent it in its appeal under the general procedure.

[2] The Respondent requests that the motion be held in abeyance pending the Federal Court of Appeal's decision in *The Queen v. BCS Group Services Inc. (BCS Group)*<sup>1</sup>. In the alternative, the Respondent opposes the motion.

[3] In its written representations, the Appellant asserts that it has suffered significant losses of approximately \$800,000 for the year ending January 31, 2018, and that it would have difficulty paying for legal representation. I note that the Appellant did not provide any material supporting that the corporation did not have the financial resources to retain counsel.

[4] This Court has rendered a number of decisions on the issue of whether section 17.1 of the *Tax Court of Canada Act* (the Act) and section 30 of the *Tax Court of Canada Rules (General Procedure)* (the Rules) allow a corporation to be represented other than by counsel in a general procedure appeal.

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<sup>1</sup> 2018 TCC 120, file A-204-18 on appeal in the Federal Court of Appeal.

In some matters such as *Masa Sushi Japanese Restaurant Inc. v. The Queen*,<sup>2</sup> *Suchocki Accounting Ltd. v. The Queen*<sup>3</sup>, and *Masa Sushi Japanese Restaurant Inc. v. The Queen*<sup>4</sup>, the Court determined that the legislation does not allow a corporate appellant to be represented by non-counsel.

[5] In other matters, such as *BCS Group* and *Sutlej Foods Inc. v. The Queen*<sup>5</sup>, the Court determined that the Act and the Rules do permit, with leave of the Court, the appointment of non-counsel to represent a corporation in a general procedure appeal.

[6] This Court's decision in *BCS Group* has been appealed to the Federal Court of Appeal and a requisition for hearing has been filed.

[7] In light of the pending decision of the Federal Court of Appeal in the *BCS Group* matter, which involves the very issue that underlies this motion, and for which differing views have been taken by this Court, it is ordered that this motion be held in abeyance until the Federal Court of Appeal has rendered its decision.

Signed at Ottawa, Canada, this 18th day of July 2019.

“Gabrielle St-Hilaire”

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St-Hilaire J.

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<sup>2</sup> 2017 TCC 239.

<sup>3</sup> 2018 TCC 88.

<sup>4</sup> 2018 TCC 98.

<sup>5</sup> 2019 TCC 20.

CITATION: 2019 TCC 154  
COURT FILE NO.: 2019-1709(IT)G  
STYLE OF CAUSE: AAR MORTGAGE CORPORATION AND  
THE QUEEN  
REASONS FOR ORDER BY: The Honourable Justice Gabrielle St-Hilaire  
DATE OF ORDER: July 18, 2019  
APPEARANCES:

Agent for the Appellant: Ashish Thawani  
Counsel for the Respondent: Larissa Benham

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: Nathalie G. Drouin  
Deputy Attorney General of Canada  
Ottawa, Canada