

Citation: 2021 TCC 32
Date: 20210629
Docket: 2018-1524(IT)G

BETWEEN:

GARY SWEETMAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

AMENDED REASONS FOR ORDER

Graham J.

[1] Gary Sweetman claimed donation tax credits in respect of gifts that he claims to have made through a tax shelter known as the Global Learning Gifting Initiative (“GLGI”). The Minister of National Revenue reassessed Mr. Sweetman to deny those credits. He has appealed those denials.

[2] There were tens of thousands of other taxpayers who claimed donation tax credits in respect of gifts purportedly made to GLGI. The Crown took two lead cases to trial. Mr. Sweetman did not choose to be bound by those lead cases. In a decision reported as *Mariano v. The Queen* (“*Mariano*”),¹ Justice Pizzitelli dismissed the appeals. He found, among other things, that the appellants “did not have the donative intent to make any of their gifts, did not own or transfer the property that is the subject matter of the gift in kind...and that the Program was a sham”.²

A. Relief Sought

[3] Mr. Sweetman seeks an order that his appeal be held in abeyance until the Minister meets all of her “obligations to GLGI participants including the many failures

¹ 2015 TCC 244.

² *Mariano* at para. 146.

related to [his] own tax returns”. Mr. Sweetman’s motion lists many alleged failures. I will deal with them separately.

Failure to Confirm GLGI Reassessments

[4] There are approximately 17,000 taxpayers who received a GLGI reassessment, objected to that reassessment, did not agree to be bound by the outcome in *Mariano* and have not yet had their objections confirmed by the Minister of National Revenue.³ I will refer to these taxpayers’ reassessments as the “GLGI Reassessments”.

[5] Mr. Sweetman does not want to proceed with his appeals until the Minister has confirmed all of the GLGI Reassessments. I do not have the jurisdiction to order the Minister to confirm the GLGI Reassessments. Therefore, Mr. Sweetman would like me to hold his appeal in abeyance until the Minister does so. He argues that forcing his appeals to go ahead before the GLGI Reassessments have been confirmed would be extremely prejudicial.

[6] A taxpayer named Jason Foroglou also brought a motion seeking to have his GLGI appeal held in abeyance until the Minister confirmed the GLGI Reassessments. I denied Mr. Foroglou’s motion.⁴ Mr. Sweetman makes very similar arguments to those made by Mr. Foroglou. I deny his motion for the same reasons.

Failure to Provide an Amount Payable

[7] Mr. Sweetman also alleges that the Minister has failed to “...provide a definitive amount payable for [his] tax returns in question as the Minister has not processed outstanding adjustment requests relating to non-capital losses and submissions for interest relief.”

[8] Mr. Sweetman has raised his concerns regarding these points previously.⁵ As I have explained to Mr. Sweetman previously, if he wants to file an Amended Notice of Appeal to raise an issue regarding the use of non-capital losses in the years in

³ Respondent's Written Submissions dated January 30, 2020, at para. 6.

⁴ *Foroglou v. The Queen*, 2020 TCC 117, at paras. 20 to 40.

⁵ See *Sweetman v. The Queen*, 2020 TCC 36, at para. 8.

question he may do so. His concerns about non-capital losses are a reason for him to consider changing his pleadings, not a reason for the Court to hold his appeal in abeyance.

[9] As to Mr. Sweetman’s argument regarding interest relief, the Tax Court does not have jurisdiction over interest relief. That jurisdiction lies with the Federal Court.⁶

Conduct of the Minister

[10] Mr. Sweetman also raises a number of other alleged failures involving the conduct of the Minister at the audit or objection stage. These are not proper issues for this Court.⁷

[11] Mr. Sweetman specifically refers to an alleged failure to “apply the tax legislation consistently in relation to GLGI taxpayers across the country.” Mr. Sweetman does not explain why he believes that the legislation has not been applied consistently. Based on materials that he has previously filed, I suspect that he is referring to the conduct described by Justice Phelan of the Federal Court in *Ficek v. The Attorney General of Canada*.⁸ If that is the case, then, as set out above, this Court does not have jurisdiction to consider the Minister’s conduct.

[12] If Mr. Sweetman’s alleged inconsistent application of the Act refers to the fact that he is no longer able to take advantage of a time-limited settlement offer that the Minister made to other taxpayers, then, again, the Tax Court does not have jurisdiction to deal with those matters.⁹ Similarly, the Tax Court does not have

⁶ For a specific discussion of interest relief in the context of GLGI, see *Wiegers v. The Queen*, 2019 TCC 260, at paras. 18 to 24.

⁷ *Main Rehabilitation v. The Queen*, 2004 FCA 403, leave to appeal refused 30739 (5 May 2005) and *Addison & Leyen Ltd. v. Canada*, 2006 FCA 107, appeal allowed on other grounds in 2007 SCC 33.

⁸ 2013 FC 502. Mr. Sweetman referred to this decision in a letter to the Court dated February 12, 2020.

⁹ *Wiegers v. The Queen*, 2019 TCC 260, at paras. 25 to 27.

jurisdiction to deal with any differential treatment of other taxpayers even if those taxpayers are in identical circumstances to Mr. Sweetman.¹⁰

Other Allegations

[13] Mr. Sweetman also argues that the Minister has brought the administration of justice into disrepute, severely impeded his ability to provide a full defence and engaged in vexatious litigation. These allegations are simply bald assertions unsupported by any evidence. There is no basis upon which I could consider them so I decline to do so.

Conclusion

[14] Based on all of the foregoing, I deny Mr. Sweetman's motion.

B. Costs

[15] Mr. Sweetman did not seek costs in respect of his motion nor did the Respondent. Accordingly, costs of Mr. Sweetman's motion will be payable in the cause.

C. Next Steps

[16] Considering all of the foregoing, I see no reason why Mr. Sweetman's appeal should not now proceed. The parties are ordered to provide the Court with dates for the completion of the remaining steps in the litigation on or before May 31, 2021.

These Amended Reasons for Order are issued in substitution for the Reasons for Order dated April 23, 2021.

¹⁰ *Sinclair v. The Queen*, 2002 DTC 1988 (TCC).

Signed at Ottawa, Canada, this 29th day of June 2021.

“David E. Graham”

Graham J.

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COURT FILE NO.: 2018-1524(IT)G

STYLE OF CAUSE: GARY SWEETMAN v. THE QUEEN

DATE OF HEARING: Motion determined by Written Submissions

AMENDED REASONS FOR ORDER BY: The Honourable Justice David E. Graham

DATE OF AMENDED REASONS FOR ORDER: June 29, 2021

PARTICIPANTS:

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