

Citation: 2021 TCC 62
Date: 20210916
Docket: 2019-1020(IT)APP

BETWEEN:

STEPHANA HUNG,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent,

JUDGMENT AND REASONS FOR JUDGMENT

Jorré D.J.

Introduction

[1] The application for an extension of time to file a Notice of Objection for the 2015 and 2016 taxation years is dismissed for the following reasons.

[2] The Applicant's employer was subject to a routine audit in late 2017 and, at around that time, employees of the employer were asked to fill out a questionnaire and provide mileage logs.

[3] The Applicant received a letter from her employer dated 2 November 2018 saying that they had learned that the questionnaires and logs had been reviewed and that she would receive a new Notice of Assessment. The letter also enclosed two amended T4s for the 2015 and 2016 taxation years. Each of these amended T4s increased her income as compared to the original T4s.

[4] The Applicant disagrees with the changes in the amended T4s. Those changes would, if implemented, increase her taxes.

[5] When the Applicant did not receive reassessments she contacted the Canada Revenue Agency. The person she spoke to advised her to file a Notice of Objection. Doing so was a wise precaution to insure that there was a timely Notice of Objection.

[6] The Applicant then filed a Notice of Objection that was received by the Canada Revenue Agency on 15 February 2019.

[7] The Agency wrote back to her and told her that her Objection was beyond the 90 day limit for an Objection.

[8] On 12 March 2019¹ the Applicant filed the application for an extension of time to file Notices of Objection for the 2015 and 2016 taxation years in this Court.

[9] Based on the Applicant's testimony, her Exhibits and the Respondent's affidavit evidence, it is clear that, for unknown reasons, the Canada Revenue Agency, never acted upon the amended T4s and, as a result, the Applicant was never reassessed with respect to the increased amounts shown on the amended T4s.

[10] One of the requirements for a time extension to file a Notice of Objection is set out in sub-paragraph 166.2(5)(b)(ii) of the *Income Tax Act* which reads as follows:

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and

[11] Given that the proposed changes that the Applicant wishes to object to were never acted upon by means of a reassessment there is in fact no dispute that needs to be reviewed on an objection. An objection in such circumstances is pointless and, in such circumstances, it would not be just and equitable to grant an application.²

¹ The Application is dated 13 March 2019.

² I would note that i) the Applicant had no disagreement with the prior assessments of 17 March 2016, 12 May 2016 and 23 March 2017 in the case of the 2015 taxation year and ii) the Applicant had no disagreement with the prior assessment of 20 March 2017 (the original assessment), in the case of the 2016 taxation year. I would note that, in any event, had the application been against the 23 March 2017 reassessment in respect of 2015 or the 20 March 2017 reassessment in respect of 2016, the Applicant would fail to meet the requirement in paragraph 166.2(5)(a) of the *Income Tax Act*.

[12] Accordingly, **the Application is dismissed.**

Signed at Toronto, Canada, this 16th day of September 2021.

“Gaston Jorré”

Jorré D.J.

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STYLE OF CAUSE: STEPHANA HUNG AND
HER MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: September 13, 2021

REASONS FOR JUDGMENT BY: The Honourable Justice Gaston Jorré,
Deputy Judge

DATE OF JUDGMENT: September 16, 2021

APPEARANCES:

For the Applicant: The Applicant herself

Counsel for the Respondent: Eric Myles

COUNSEL OF RECORD:

For the Applicant:

Name:

Firm:

For the Respondent: François Daigle
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