

Docket: 2021-1592(GST)I

BETWEEN:

MUKTI SAHA,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Appeal heard on July 17, 2025, at Toronto, Ontario

Before: The Honourable Justice Lara Friedlander

Appearances:

For the Appellant: The Appellant herself

Counsel for the Respondent: Hermione Shou

JUDGMENT

UPON hearing from the parties:

The appeal from an assessment under the *Excise Tax Act* (“ETA”) for the yearly reporting period from January 1, 2018 to December 31, 2018, is dismissed, without costs.

Signed this 26th day of August 2025.

“Lara Friedlander”

Friedlander J.

Citation: 2025 TCC 118
Date: 20250826
Docket: 2021-1592(GST)I

BETWEEN:

MUKTI SAHA,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR JUDGMENT

Friedlander J.

[1] The issue in this appeal is whether the Appellant is entitled to input tax credits for \$4,875.22 of HST paid in connection with expenses incurred during the yearly reporting period ending December 31, 2018. The Respondent has denied the input tax credits on the basis that the expenses were not incurred by the Appellant to acquire property or services for consumption, use or resupply in the course of the Appellant's commercial activities but rather were personal expenses of the Appellant, and that, in any case, the Appellant did not obtain and retain the documentation required by subsection 169(4) of the *Excise Tax Act* (the "ETA"). The Appellant appeared and testified with the assistance of an interpreter. No other witnesses testified.

[2] For the reasons that follow, I dismiss the appeal.

BACKGROUND

[3] The Appellant owned a building in Toronto. The bottom floor of the building was rented to a hair salon for all of 2018. The second floor of the building consisted of two residential units rented for at least some if not all of 2018. The Appellant was a registrant for purposes of the ETA throughout 2018.

[4] The expenses in question were motor vehicle expenses, telephone expenses and maintenance and repair expenses. The Appellant described the motor vehicle expenses as consisting of items such as gas, costs associated with repairing her own vehicle and costs relating to the rental of a van used to transport items that were bought for her tenants. The Appellant did not provide to the Court any receipts associated with these expenses, nor did she provide any evidence as to whether these expenses were incurred exclusively or only partially in connection with the building or any particular tenant.

[5] The Appellant described the telephone expenses as expenses associated with a telephone with which she communicated with her tenants. Again, the Appellant did not provide to the Court any receipts associated with these expenses, nor did she provide any evidence as to whether these expenses were incurred exclusively or only partially in connection with the building or any particular tenant.

[6] In respect of the maintenance and repair expenses, the Appellant testified that the expenses related to construction, equipment and repairs. She gave examples of some of these repairs, including repairing a stove, dishwasher, washing machine or dryer, replacing a sink for the hair salon and repairing floors for her residential tenants, but did not provide any further description or detail relating to the expenses.

[7] In respect of the maintenance and repair expenses, three receipts were admitted into evidence. One receipt, which represented the largest expense for which the Appellant had a receipt, was for \$1,300 described by the Appellant as being for a sink, cabinet and countertop from Link Kitchen Bath. The receipt itself contained very little detail regarding the supplies being purchased, but did set out some information regarding a cabinet and a countertop and referenced a sink model and faucet hole. The Appellant testified that the sink at the hair salon was not working and needed to be replaced. On the receipt the words "HST. \$" were crossed out. There was no GST/HST registration number for the supplier on the receipt.

[8] The Appellant also provided a receipt from Home Depot for several items for a total of approximately \$310 (the number of cents was not legible on the receipt) including HST. The Appellant stated that this receipt related to the repair of flooring on the upper floor. Much of this receipt was illegible. The itemized entries on the receipt were "BEHR", which the Appellant stated was paint, "LOSET FLANG", which may have been "CLOSET FLANG" but the first letter of "loset" was not legible. A third item, which appears to have been approximately \$260 of the pre-tax total

of approximately \$275, was an item described as “Bromoil WH”. The Appellant was unable to recall what these two items were, guessing that one item might have been drywall.

[9] The Appellant also produced a receipt from Dollarama. This receipt listed over 15 different items such as a cushion cover, batteries, garbage bags, tumblers, a towel holder and a cleaning brush, totalling \$34.30 including HST (\$30.35 excluding HST). The Appellant testified that some of the items on the Dollarama receipt were personal and some were for the building, but did not identify which were which, nor which were for which tenant.

[10] The Appellant also stated that she was responsible for half of some of the utility costs of the building, most notably hydro, but did not produce any documentation regarding these expenses.

[11] The Appellant was given the opportunity to submit more receipts but declined to do so due to personal time constraints on the day of trial. The Appellant did not provide leases, any documentation regarding requests by tenants for repairs, photographs or any other documentation to support the identification of particular expenses as being connected with the rental of any particular units in the building.

[12] The Reply states that the Minister assumed that the expenses in issue were not acquired for consumption, use or resupply in the course of the Appellant’s commercial activities and were personal expenses of the Appellant.

WHETHER TAX WAS PAID ON EXPENSES INCURRED IN THE COURSE OF COMMERCIAL ACTIVITIES

[13] Subsection 169(1) of the ETA generally provides that a registrant may claim input tax credits in respect of tax paid on the supply of a property or service acquired for consumption, use or supply in the course of commercial activities of the registrant. “Commercial activities” as defined in subsection 123(1) of the ETA generally excludes the making of “exempt supplies”. Section 6 of Part I of Schedule V of the ETA provides that a supply of a residential unit in a residential complex by way of a lease is an exempt supply provided certain conditions are met. At trial the Respondent did not take the position that the Appellant’s rental of the residential units was not a commercial activity, and made no submissions on this issue. Rather, the Respondent’s primary argument regarding subsection 169(1) of the ETA was

that the Appellant's expenses were consumed, used or supplied in the course of personal activities rather than in the course of activities connected with the building more generally. However, in the Reply the Respondent did assume that the expenses in question were not acquired for consumption, use or resupply in the course of the Appellant's commercial activities, and the Appellant did not provide any evidence or argument to support the view that rental of the residential units was not an exempt supply. Accordingly, I find that the rental of the residential units by the Appellant is not a "commercial activity", and therefore tax on supplies made in respect of those units is not eligible for input tax credits. Tax on supplies made in respect of the hair salon, including supplies made in respect of the building that can be allocated to the hair salon, is potentially eligible for input tax credits.

[14] The Appellant's relatively vague testimony, unsupported by any documentation linking the expenses to the Appellant's obligations to the hair salon or to the maintenance of her building more generally, is insufficient to demolish the assumptions of fact made by the Minister. Generally, I found credible the Appellant's assertion that at least some of the expenses in question were incurred in connection with the building and in connection with particular tenants. However, the Appellant's testimony indicates that many of the expenses relate to the renting of the residential units, which, as stated above, is an exempt supply. Furthermore, some of the Appellant's statements, while not very detailed or specific, left the impression that at least some expenses that may have had a personal component were in fact claimed in full. For example, the Appellant seemed to be suggesting that she claimed telephone expenses because her telephone was used to communicate with the hair salon, but she did not indicate that that telephone was used exclusively for that purpose nor did she indicate that the expenses were claimed on some kind of proportionate basis reflecting that use and other uses. Similarly, the Appellant stated that she claimed repairs to her own vehicle because it was used to transport items for the building, but did not indicate that the car was used exclusively for business purposes (or for the hair salon particularly) nor did she indicate that the expenses were claimed on some kind of proportionate basis reflecting business and personal uses (or allocating between the hair salon and the residential units). The Appellant's testimony relating to the Dollarama receipt also indicates that she had not attempted to separate business and personal expenses (nor expenses relating to any particular tenant). Given the Appellant's testimony that some of the expenses relate to the rental of the residential units, and given the absence of documentary or detailed oral evidence linking other specific expenses to the obligations of the Appellant regarding her building generally or the hair salon particularly, I am not able to

attribute or allocate any of the expenses in issue to commercial activities. Accordingly, I find that the Appellant has not demolished the assumptions of fact made by the Minister and therefore has not met the requirements of subsection 169(1).

DOCUMENTATION REQUIREMENTS

[15] I have also considered the Respondent's position that the Appellant has not satisfied the documentation requirements of subsection 169(4) of the ETA. Unless the Minister has waived the documentation requirements pursuant to subsection 169(5) of the ETA, which is not the case here, the requirements of subsection 169(4) are mandatory (*Systematix Technology Consultants Inc. v. The Queen*, 2007 FCA 226, [2007] G.S.T.C. 74 (F.C.A.)).

[16] Generally, paragraph 169(4)(a) of the ETA requires that, before filing the return in which an input tax credit is claimed, the registrant obtain sufficient evidence containing such information as will enable the amount of the input tax credit to be determined, including any information that is prescribed. The prescribed information is set out in the *Input Tax Credit Information (GST/HST) Regulations*. In general, as applicable to reporting periods in 2018, these regulations require the following:

- (a) Where the total amount paid or payable on the supporting documentation in respect of the supply or, if the supporting documentation is in respect of more than one supply, the supplies, is less than \$30:
 - i. the name of the supplier,
 - ii. the date of the invoice, and
 - iii. the total amount paid or payable for all of the supplies.
- (b) Where the total amount paid or payable on the supporting documentation in respect of the supply or, if the supporting documentation is in respect of more than one supply, the supplies, is \$30 or more but less than \$150:
 - i. the name and GST/HST registration number of the supplier,

- ii. the information in (a)(ii) and (iii) above, and
 - iii. the amount of tax payable under the ETA shown separately (and the amount of any provincial sales tax shown separately) or, if the amount paid or payable for the supplies includes the tax, the rates of the tax paid or payable and the amount paid or payable for the supplies to which such tax was applicable.
- (c) Where the total amount paid or payable on the supporting documentation in respect of the supply or, if the supporting documentation is in respect of more than one supply, the supplies, is greater than \$150:
- i. the information in (a) and (b) above,
 - ii. the recipient's name,
 - iii. the terms of payment, and
 - iv. a description of the supply sufficient to identify it.

[17] The receipt from Link Kitchen Bath for \$1300 does not meet the documentation requirements as the GST/HST registration number of the supplier is not indicated and the amount or rate of tax is not shown separately. The receipt from Home Depot for roughly \$310 (roughly \$275 without GST/HST) also does not meet the documentation requirements as the GST/HST registration number of the supplier is either not indicated or is not legible, the recipient's name is not indicated or is not legible, the terms of payment are not indicated or are not legible and the description of the most costly supply is not sufficient to identify it.

[18] The receipt from Dollarama meets the documentation requirements. However, given the conclusions reached above regarding the purpose of the expenses, including the supplies acquired from Dollarama, my conclusion that the Dollarama receipt meets the documentation requirements does not change my conclusion that no input tax credits may be claimed in connection with the tax paid to Dollarama on such supplies.

[19] The appeal is dismissed, without costs.

Signed this 26th day of August 2025.

“Lara Friedlander”

Friedlander J.

CITATION: 2025 TCC 118

COURT FILE NO.: 2021-1592(GST)I

STYLE OF CAUSE: MUKTI SAHA AND HIS MAJESTY
THE KING

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: July 17, 2025

REASONS FOR ORDER BY: The Honourable Justice Lara Friedlander

DATE OF ORDER: August 26, 2025

APPEARANCES:

For the Appellant: The Appellant herself

Counsel for the Respondent: Hermione Shou

COUNSEL OF RECORD:

For the Appellant:

Name: N/A

Firm: N/A

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Ottawa, Canada