Docket: 2012-2198(GST)I

BETWEEN:

SYLVAIN DESCHAMPS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on March 3, 2014, at Ottawa, Canada.

Before: The Honourable Justice Paul Bédard

Appearances:

For the appellant:	The appellant himself
Counsel for the respondent	Nicolas C. Ammerlaan

JUDGMENT

The appeal from the assessments made pursuant to Part IX of the *Excise Tax Act* regarding the goods and services tax for the periods of October 1, 2004, to December 31, 2004, and October 1, 2005, and December 31, 2005, is dismissed in accordance with the attached reasons for judgment.

Signed at Ottawa, Canada, this 28th day of May 2014.

"Paul Bédard"

Bédard J.

Translation certified true
on this 15th day of July 2014.
Elizabeth Tan, Translator

Citation: 2014 TCC 181
Date: 20140528
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BETWEEN:

SYLVAIN DESCHAMPS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

REASONS FOR JUDGMENT

Bédard J.

[1] The appellant is appealing from two assessments dated June 16, 2009, made pursuant to Part IX of the *Excise Tax Act* (ETA), one of which is for the period of October 1, 2004, to December 31, 2004, and the other for the period of October 1, 2005, to December 31, 2005 (the periods in question).

Appellant's testimony

[2] In 2004 and 2005, the appellant was a self-employed construction worker. During the first quarter of 2004, the appellant rendered services to the company Durabuilt Construction (Durabuilt). Durabuilt had required him to have a goods and services tax (GST) registration number. The appellant met this requirement and obtained his GST registration number. The appellant completed and filed a first net tax return for this first quarter, in which the GST collected and input tax credits (ITC) claimed were reported. Then, the appellant rendered services to another company, which did not require him to have a GST registration number. After that, the appellant completed and filed his net tax returns indicating he did not collect GST. The appellant explained that he did so in accordance with the recommendations of an Agence du revenu du Québec (ARQ) employee.

[3] Moreover, the evidence showed that:

(i) during the periods in question, the appellant was a registrant pursuant to Part IX of the ETA. The registration was cancelled on September 31, 2006;

(ii) during the period of April 1, 2004, to December 31, 2004, the appellant reported income of $22,237 from a taxable commercial activity;

(iii) during the period of January 1, 2005, to December 31, 2005, the appellant reported income of $36,881 from a taxable commercial activity;

(iv) all the supplies made by the appellant during the commercial activities conducted during the periods in question constituted taxable supplies;

(v) to determine the amount of GST the appellant collected or was required to collect for the periods in question, the amount of taxable supplies made by the appellant was established based on the income the appellant reported in his tax returns. In this case, the Minister used the quick method to establish the amounts the appellant owed. I note that the quick method is a simple method by which small businesses calculate the GST they must remit instead of calculating the tax collected on sales and the tax paid for purchases as the usual GST system requires; under the quick method, the registrant calculates the net tax owing simply by multiplying the taxable supplies made in Canada, GST included, by the prescribed quick method remittance rate.

Appellant's argument

[4] Essentially, the appellant is not challenging the assumptions of fact on which the Minister based his assessment. He feels I should allow this appeal because he did not understand the ETA system and because he had been misinformed by the ARQ. Lastly, the appellant argues that the Minister's use of the quick method to determine the amount of the net tax to remit for the periods in question was unfavourable to him.

Analysis and conclusion

[5] In this case, all the supplies made by the appellant during the commercial activities of the business he operated during the periods in question constituted taxable supplies for which GST was payable by the recipients to the appellant, who was to collect it. He neglected to collect $2,624.87 in GST from the recipients, which he was to do pursuant to sections 165 and 221 of the ETA. The appellant did not include this amount of GST payable in the calculation of the net tax he reported to the Minister for the periods in question, which he was to do pursuant to sections 221, 225 and 228 of the ETA. The appellant's ignorance as to how the ETA works is not a valid reason to allow his appeal. The fact an employee from the ARQ misled the appellant cannot be accepted by the Court and is not a valid reason to allow his appeal. The Court is required to apply the provisions of the ETA adopted by Parliament, and not public servants' interpretation of it. If the appellant had truly been misled by an ARQ employee, the Court cannot do anything other than advise the appellant to take action against the ARQ representatives who allegedly misled him if he feels they pushed him to make decisions that caused him harm. I would add that, in cases where a taxpayer was misled, the Minister might exercise his discretionary power and waive the interest imposed pursuant to a request for relief. Lastly, I must find that the quick method the Minister used was not unfavourable to the appellant, since the appellant did not provide any evidence to support this argument.

[6] Additionally, I would note that the appellant did not challenge the interest and penalties established pursuant to section 280 of the ETA.

[7] For these reasons, the appeal is dismissed.

Signed at Ottawa, Canada, this 28th day of May 2014.

"Paul Bédard"

Bédard J.

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CITATION:	2014 TCC 181
COURT FILE NO.:	2012-2198(GST)I
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PLACE OF HEARING:	Ottawa, Canada
DATE OF HEARING:	March 3, 2014
REASONS FOR JUDGMENT BY:	The Honourable Justice Paul Bédard
DATE OF JUDGMENT:	May 28, 2014

APPEARANCES:

For the appellant:	The appellant himself
Counsel for the respondent:	Nicolas C. Ammerlaan

COUNSEL OF RECORD:

For the appellant:

Name:

Firm:

For the respondent: William F. Pentney
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Ottawa, Canada