

Docket: 2014-692(IT)I

BETWEEN:

SCOTT PEAREN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on September 11, 2014, at Vancouver, British Columbia.

Before: The Honourable Justice Lucie Lamarre

Appearances:

For the Appellant: The Appellant himself
Counsel for the Respondent: Shankar Kamath

JUDGMENT

The appeal from the reassessment made under the *Income Tax Act* for the 2012 taxation year is allowed to take into account the amounts conceded by the respondent at the hearing. The appellant is entitled to claim a credit for medical expenses totalling \$10,524.

Signed at Ottawa, Canada, this 1st day of October 2014.

“Lucie Lamarre”

Lamarre J.

Citation: 2014 TCC 294

Date: 20141001

Docket: 2014-692(IT)I

BETWEEN:

SCOTT PEAREN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Lamarre J.

[1] The appellant claimed a medical expense tax credit for medical expenses totalling \$29,220 incurred during his 2012 taxation year.

[2] Of that total amount, \$26,869.30 was an amount paid to SCI Healthcare (SCI) for a procedure to implant a surrogate with an embryo (a donated egg fertilized by the appellant) with the intent to create a child.

[3] SCI was located in India and the appellant also claimed costs of \$1,364.48 for travel to India and a total of \$408 for meals during his 8-day stay in India. He explained that he had to go to India to undergo medical procedures related to the surrogacy treatment.

[4] He filed as Exhibit A-1 the breakdown of his expenses paid for the services of SCI. He explained that the in-vitro and embryology services provided were related to in-vitro fertilization in which he was personally involved, as his sperm was used in the creating of the embryo to be implanted in the surrogate mother.

[5] The respondent conceded in court that those expenses (totalling \$8,173 CDN) and the travel expenses incurred to go to India for the treatment (travel \$1,364, meals \$408) were deductible pursuant to paragraphs 118.2(2)(g), (h) and (o) of the *Income Tax Act (ITA)*. Further, as a consequence of that concession, the eligible medical expenses with respect to his optical costs in the amount of

\$579.15, which had initially been refused, were accepted, as the total medical expenses exceeded 3% of the appellant's income for the year, which is a condition that must be met under subsection 118.2(1) of the ITA.

[6] The balance of the expenses disallowed were those paid for the surrogate mother.

[7] For the reasons set out in the case of Todd Edward Zanatta (2014-562(IT)I) heard before me on the same day as the present case and in which the same arguments were made, I agree with the respondent that none of the expenses related to the surrogate mother are deductible pursuant to paragraph 118.2(2)(a) of the ITA.

[8] The appeal is therefore allowed to take into account the amounts conceded by the respondent at the hearing. The appellant is entitled to claim a credit for medical expenses totalling \$10,524 (\$8,173 + \$1,364 + \$408 + \$579).

Signed at Ottawa, Canada, this 1st day of October 2014.

“Lucie Lamarre”

Lamarre J.

CITATION:

COURT FILE NO.: 2014-692(IT)I

STYLE OF CAUSE: SCOTT PEAREN v. HER MAJESTY THE QUEEN

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: September 11, 2014

REASONS FOR JUDGMENT BY: The Honourable Justice Lucie Lamarre

DATE OF JUDGMENT: October1, 2014

APPEARANCES:

For the Appellant: The Appellant himself
Counsel for the Respondent: Shankar Kamath

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: William F. Pentney
Deputy Attorney General of Canada
Ottawa, Canada