

BETWEEN:

ASSADULLAH EHSAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Appeal heard on February 12, 2015 and January 22, 2016,  
at Toronto, Ontario

Before: The Honourable Justice Valerie Miller

Appearances:

Agent for the Appellant: Samina Ehsan  
Counsel for the Respondent: Tony Cheung

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**JUDGMENT**

The appeal from the reassessments made under the *Income Tax Act* for the Appellant's 2008 and 2009 taxation years is allowed and the reassessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis of the concessions made by the Minister of National Revenue at the hearing of this appeal as follows:

- a) The amount of unreported income included in the Appellant's income will be reduced by \$2,200 and \$1,940 in 2008 and 2009 respectively;
- b) The Appellant is entitled to deduct business entertainment expenses of \$600 in each of 2008 and 2009;
- c) The Appellant is entitled to deduct the additional amount of \$2,353 for supplies in each of 2008 and 2009;

d) The Appellant is entitled to deduct the amount of \$4,000 for salaries in 2009.

Signed at Ottawa, Canada, this 26<sup>th</sup> day of January 2016.

“V.A. Miller”

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V.A. Miller J.

Citation: 2016TCC23  
Date: 20160126  
Docket: 2014-2214(IT)I

BETWEEN:

ASSADULLAH EHSAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR JUDGMENT**

V.A. Miller J.

[1] Mr. Ehsan has appealed the reassessment of his 2008 and 2009 taxation years in which the Minister of National Revenue (the “Minister”) increased his income by the amount of \$16,504 and \$1,940 respectively and disallowed the deduction of \$12,493.92 and \$18,208.65 respectively, as business expenses.

[2] The Minister conducted an audit of these years by using an indirect method of verification called a bank deposit analysis. The deposits into Mr. Ehsan’s personal and business accounts were compared with the gross income he reported on his income tax returns. Those deposits which were not explained to the satisfaction of the auditor were included in Mr. Ehsan’s income.

[3] The expenses which were at issue in this appeal were as follows:

2008	Claimed	Allowed	In Dispute
Salaries	\$5,410	\$4,000	\$1,410
Business Entertainment	1,962		1,962
Maintenance & Repairs <sup>1</sup>	6,460	4,865	1,595
Telephone & Utilities	1,620	702	918
Other	265	265	
Operational Supplies	10,256	3,647	6,609
Bank Charges		306	

Bookkeeping		1,500	
Total	\$25,973	\$15,285	\$12,494

2009	Claimed	Allowed	In Dispute
Salaries	\$8,250	nil	\$8,250
Business Entertainment	1,777	nil	1,777
Maintenance & Repairs	7,564	5,361	2,203
Telephone & Utilities	1,560	606	954
Supplies	8,640	3,647	4,993
Bank Charges	397	366	31
Bookkeeping Fee		750	
Total	\$28,188	\$10,730	\$18,208

### **Preliminary Matter**

[4] At the beginning of the hearing, counsel for the Respondent informed the Court that the Minister conceded the following amounts:

- a) The amount of unreported income included in the Appellant's income will be reduced by \$2,200 and \$1,940 in 2008 and 2009 respectively;
- b) The Appellant is entitled to deduct business entertainment expenses of \$600 in 2008 and 2009;
- c) The Appellant is entitled to deduct the additional amount of \$2,353 for supplies in 2008 and 2009;
- d) The Appellant is entitled to deduct the amount of \$4,000 for salaries in 2009.

### **Facts and Decision**

[5] The witnesses at the hearing were the Appellant, his daughter Samina Ehsan, and Lianne Durant, an appeals officer with the Canada Revenue Agency ("CRA"). Ms. Ehsan represented the Appellant who gave his testimony through an interpreter.

[6] In 2008 and 2009, the Appellant was the sole proprietor of a business operated under the name Leaside Maintenance. As such, he performed

maintenance and repair duties as a subcontractor for Yellow Storage, a self-storage company. He worked at various facilities owned by Yellow Storage. According to the Appellant and his daughter, the Appellant also did small home renovation projects and small home repair projects such as tiling. He obtained these clients mainly “by word of mouth”.

[7] The Appellant reported gross business income of \$40,598 and \$44,379 in 2008 and 2009. There was no evidence regarding the breakdown of income earned from Yellow Storage and the amount earned from his private clients.

[8] The Appellant stated that the unidentified deposits which were included in his income as unreported income were actually reimbursement of amounts he had lent to his children.

[9] It was the Appellant’s evidence that his accountant was to blame for any mistakes in his income tax returns. He said that he did not speak English very well and he accepted his income tax returns as prepared by his accountant. He further stated that there were “somethings” in his income tax return that his accountant “made up”. “It was the accountant’s fault.”

[10] Ms. Ehsan confirmed that the Appellant had lent her money and in 2008 she repaid him \$2,200. She produced her bank statements which showed that she had withdrawn amounts from her account. The date of the withdrawals didn’t precisely match the date of the unidentified deposits in the Appellant’s accounts. Ms. Ehsan further stated that all unidentified deposits in the Appellant’s accounts were amounts given to him by family members. However, the other family members did not testify at the hearing and their bank statements were not tendered as exhibits.

[11] The Minister has agreed to reduce the amounts included in the Appellant’s 2008 income by \$2,200.

[12] Ms. Ehsan stated that the Appellant engaged casual labourers to assist him. Included in the Appellant’s documents were letters from various family members who wrote that they had received cash payments in 2009 as casual labourers for Leaside Renovations. The letters were not signed and the alleged authors of the letters did not attend the hearing. The total cash wages allegedly paid to family members was \$4,000. Ms. Ehsan further stated that the Appellant paid additional cash wages of \$1,410 and \$4,250 to other casual labourers who refused to attend the hearing to testify on behalf of the Appellant.

[13] I note that at the appeals stage of this case, the Appellant told the appeals officer that all amounts disallowed as wages represented payments made to his family members for casual labour. The family members did not report that they had received any wages from the Appellant. However, in spite of this evidence, the Minister has agreed to allow the Appellant to deduct a wage expense of \$4,000 in 2009.

[14] It was Ms. Ehsan's evidence that the Appellant incurred entertainment expenses. According to her, the Appellant usually met his clients at a "fast food" restaurant. She produced an "Appeals Working Paper" which contained the summary of entertainment expenses which had been given to the CRA. The alleged entertainment expenses totalled \$402.09 and \$523 in 2008 and 2009. I note that Lianne Durant wrote on the summary that the Appellant did not provide any receipts to support that he had incurred the expenses. Likewise, the Appellant did not submit any receipts at the hearing to support that he had incurred entertainment expenses.

[15] The Minister has agreed to allow the Appellant to deduct an entertainment expense of \$600 in each of 2008 and 2009.

[16] The Appellant submitted numerous receipts to support the expenses he claimed for supplies. These receipts had been reviewed by the CRA and the amounts were allowed as an expense. The Appellant did not tender any receipts to support that he had incurred any of the expenses for supplies which had been disallowed.

[17] Both the Appellant and Ms. Eshan stated that the Appellant had a home office but their evidence was unconvincing.

[18] The Appellant has not shown that he is entitled to any expenses beyond those conceded by the Minister. The appeal is allowed only to the extent of the Minister's concessions.

Signed at Ottawa, Canada, this 26<sup>th</sup> day of January 2016.

"V.A. Miller"

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V.A. Miller J.

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<sup>1</sup> In both years, the Maintenance & Repairs expense included amounts for fuel, vehicle maintenance and insurance. These amounts were allowed.

CITATION: 2016TCC23  
COURT FILE NO.: 2014-2214(IT)I  
STYLE OF CAUSE: ASSADULLAH EHSAN AND HER  
MAJESTY THE QUEEN  
PLACE OF HEARING: Toronto, Ontario  
DATE OF HEARING: February 12, 2015  
REASONS FOR JUDGMENT BY: The Honourable Justice Valerie Miller  
DATE OF JUDGMENT: January 26, 2016

APPEARANCES:

Agent for the Appellant: Samina Ehsan  
Counsel for the Respondent: Tony Cheung

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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