Federal Court Cour fédérale

Date: 20220202

Docket: T-499-21

Citation: 2022 FC 122

Toronto, Ontario, February 2, 2022

PRESENT: Madam Justice Go

BETWEEN:

ROBERT OSBORNE AND JESSICA RAY

Applicants

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr. Robert Osborne and Ms. Jessica Ray [together the Applicants] are a married couple. They are citizens of Canada and currently residents of Bermuda. They own a rental property in Canada for which they must report their rental income in their non-resident income tax returns [NR Returns].

[2] The Applicants were nine days late in filing their 2018 NR Returns under section 216 of the *Income Tax Act*, (R.S.C., 1985, c. 1 (5th Supp.)) [*ITA*]. Subsequently, the Applicants requested an extension of time to file their NR Returns from the Minister of National Revenue [Minister]. The Applicants stated in their request that their lateness in filing was due to delays caused by the Canada Revenue Agency [CRA]. By a letter dated January 20, 2021, a delegate of the Minister denied the Applicants' request for an extension of time under subsection 220(3) of the *ITA* [the Decision].

[3] The Applicants seek judicial review of the Decision under section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7. The Applicants argue that the Decision is unreasonable on the grounds that it lacks adequate reasons, a rational chain of analysis, and consideration of the Applicants' submissions. They seek an order that the Respondent accept the late filing of the returns, or in the alternative, an order of *certiorari* quashing and setting aside the Decision. The Respondent submits that the Decision was reasonable, as it contains a rational chain of analysis and is internally coherent.

[4] For the reasons set out below, I find the Decision unreasonable as it failed to provide sufficient reasons and failed to respond to the Applicants' submissions.

II. Background

A. *Relevant Legislative Framework*

[5] Non-residents who receive rental income from real property in Canada are required to pay income tax of 25 percent on amounts they receive as rental income. Under subsection 216(4) of the *ITA*, a non-resident can elect to pay tax on the net income instead of the gross income by filing an undertaking and income tax return under the section. The tax payable on an income tax return filed under section 216 in general is less than the tax withheld on the gross rental income. Paragraph 216(4)(b) provides that if a non-resident makes the 216(4) election, they shall file a return in accordance with the undertaking or pay certain amounts to the Receiver General.

[6] As per subsection 216(1), a non-resident who elects a 216 filing must file a section 216 return within two years of the end of the tax year, or six months from the end of the tax year if the taxpayer has submitted an undertaking pursuant to subsection 216(4) of the *ITA* [NR6 Undertaking].

[7] The full text of subsections 216(1) to (4) can be found at Appendix A.

[8] Another relevant legislative provision for this application is subsection 220(3) of the *ITA*, which gives the Minister the discretion to extend the time for making a return under the *ITA*. The Minister's power can be delegated to a CRA officer.

B. *Factual Context*

[9] To fulfil their tax filing requirement as non-residents with rental income from property in Canada, the Applicants provided an NR6 Undertaking to the Minister, in which they undertook

to file their 2018 NR Returns within six months after the end of the taxation year. During the 2018 tax year, the Applicants made the required monthly tax installment payments.

[10] The Applicants retained the service of PricewaterhouseCoopers LLP [PwC] to prepare their 2018 NR Returns. According to the Applicants' letter dated September 1, 2020 to the CRA, when the Applicants' non-resident withholding tax was remitted to the CRA, it was applied to their general account, rather than their non-resident account [NR account]. PwC called the CRA on April 17, 2019, and requested that the remittances be transferred from the general to the NR account. Additionally, the Applicants received a non-resident tax discrepancy notice dated April 18, 2019 stating that the tax applied to the NR account did not match the amount reported on the NR4 slips. PwC then responded to the notice on May 21, 2019 and followed up with a CRA agent to check if the funds had been transferred. According to the Applicants, the tax payments were not transferred to their NR account until June 18, 2019, despite multiple follow-ups by PwC.

[11] The Applicants further stated that while they were ready to file their NR Returns by the end of April 2019, they did not do so at the time as they were concerned that they should not file a return that did not reflect balances that the CRA had on account.

[12] The Applicants stated that they inquired of PwC in early June 2019 as to whether they should proceed to file their NR Returns and were advised to "hold off" as the CRA had not yet applied the payments to their NR account. The Applicants finally received notification that the payments had been corrected "late in June." By then, due to a number of other factors (i.e., Mr.

Osborne was busy with his work and the colleague he had relied on to help with the finalization of filing of the return was away on vacation until July 5th), the Applicants delayed filing their return until July 9, 2019.

[13] On December 20, 2019, the CRA notified the Applicants that the NR Returns could not be processed because they were not filed on time. As a result, the Applicants would be assessed tax on the gross rather than the net rental income of their rental property, plus interest, and were thereby denied the taxable deduction for the expenses of maintaining the rental property. On December 23, 2019, PwC advised the Applicants that they each were assessed $5,326.28, for a total amount of $10,652.56, resulting from the nine-day filing delay. The Applicants paid the tax that day.

[14] On February 27, 2020, the Applicants filed a Notice of Objection to the CRA's decision to not accept the late filing, which the CRA denied on July 23, 2020. On September 1, 2020, the Applicants submitted their request to the Minister to exercise its discretion pursuant to subsection 220(3) of the *ITA* to give the Applicants a nine-day extension of time to file the NR Returns.

[15] The Applicants' request went through a multi-tier review process. CRA Officer Sandra Burton was the first to review the request and prepare two "Section 216 Fact Reports" [Fact Reports], one for each taxpayer, which she submitted to Ginette Kring, then a Resource Officer in the Non-Resident Part III Division of the CRA. Ms. Burton also prepared a draft letter rejecting the Applicants' request. Ms. Kring then reviewed the Fact Reports, signed her

agreement with their contents, and forwarded them together with the draft letter to her supervisor, Carole Fournier, who is the Manager, Non-Resident Withholding and who has delegated authority with respect to requests for filing extensions pursuant to subsection 220(3) of the *ITA*. On January 14, 2021, Ms. Fournier signed the Fact Reports, endorsing the recommendations.

C. *Decision under Review*

[16] By a letter dated January 20, 2021, Ms. Fournier informed the Applicants that their request was denied. Using the draft letter prepared for her, Ms. Fournier stated that the information provided by the Applicants did not show that there were circumstances preventing them from filing their NR Returns on time.

III. Issues and Standard of Review

[17] The Applicants raise the issue of whether the Minister reasonably exercised its discretionary authority under subsection 220(3) of the *ITA*, which provides that the Minister "may at any time extend the time for making a return under this Act." In other words, the issue is whether the Decision denying the request for an extension of time was reasonable.

[18] The parties agree that the standard of review is reasonableness, in accordance with *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*].

[19] A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker": *Vavilov*, at para 85. To set aside a decision on this basis, "the reviewing court must be satisfied that there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency": *Vavilov*, at para 100. The Applicants bear the burden of establishing that the decision is unreasonable.

IV. Preliminary Issues

A. *Style of Cause*

[20] As a preliminary point, pursuant to Rule 303(2) of the *Federal Courts Rules*, SOR/98-106 [the *Rules*], the appropriate respondent in this case is The Attorney General of Canada and not the Minister of National Revenue. The style of cause will be amended accordingly.

B. *New Evidence*

[21] In affidavits submitted before the Federal Court, the Applicants included background on their communications with PwC concerning their tax filing.

[22] The Respondent notes that information that was not before the decision maker is relevant only to the extent that it provides general background in circumstances where that information might assist the Court in understanding the issues relevant to the judicial review (*Tsleil-Waututh Nation v Canada (Attorney General)*, 2017 FCA 128 [*Tsleil-Waututh Nation*] at para 98). In particular, the Respondent notes that the communications between the Applicants and PwC,

which are included in the Applicants' affidavits, were not before the decision maker and are not relevant on judicial review.

[23] There are a few exceptions to the general rule that only the evidentiary record before the administrative decision maker is admissible before the reviewing court. These include: (i) an affidavit that provides general background to assist the Court in understanding the issues relevant to the judicial review, (ii) an affidavit dealing with procedural defects that cannot be found in the evidentiary record, and (iii) an affidavit to highlight the complete absence of evidence before the administrative decision maker when it made a particular finding: *Tsleil-Waututh Nation*, at para 98. None of these exceptions applies to the new evidence that the Applicants have provided to the Court.

[24] While this list of exceptions may not be closed, *Association of Universities and Colleges of Canada v Access Copyright*, 2012 FCA 22 at para 20, the Applicants have not provided any reason as to why their situation should fall under the above quoted or other exceptions.

[25] I agree with the Respondent that the communications between the Applicants and PwC are not relevant to the judicial review, as they were never submitted to the CRA and did not form part of the materials that were considered by the decision maker in question. I will therefore not consider these communications.

V. Analysis

[26] The Applicants argue that the Respondent erred in law by: (1) failing to provide sufficient reasons for the Decision, (2) failing to conduct a rational chain of analysis, and (3) failing to consider the Applicants' submissions.

[27] As stated above, in my view the Decision was unreasonable because it failed to provide sufficient reasons and failed to consider the Applicants' submissions.

[28] The Applicants argue that the Decision failed to consider a number of factors which were relevant to considering the relief they requested, the primary ones being the CRA's error in allocating withholding tax remittances to the wrong account, the CRA's delay in remediating the problem with the remittances, and financial hardship.

[29] The Applicants submit that "the reviewing court must be able to trace the decision maker's reasoning without encountering any fatal flaws in its overarching logic": *Vavilov,* at para 102. Relying on *Vavilov* at para 127, the Applicants further submit that the principles of justification and transparency require an administrative decision maker's reasons to meaningfully account for the central issues and concerns raised by the parties.

[30] In response, the Respondent submits that the Decision did adequately respond to the Applicants' request. According to the Respondent, the Decision of the Minister is that the Applicants were able to file on time but chose not to, and no alleged errors or delays by the

Minister prevented the Applicants from filing on time. The Respondent points out that the Applicants could have filed their returns in the time between the resolution of the problem with the mixed up accounts on June 19, 2019, and the due date of the NR Returns.

[31] The Respondent further counters with a reference to *Vavilov* at para 128, which states that while a decision is expected to respond to the submissions made, it cannot be expected to respond to every argument or line of possible analysis.

[32] Notwithstanding counsel's able submission, the Respondent's argument must fail. While I agree the Decision is not expected to respond to every submission or argument made, it must at least respond to ***some*** of the submissions, especially those that are central to the issues raised by the Applicants.

[33] In this case, the reasons for the Decision amount to four brief paragraphs:

> I am replying to your letter of September 1, 2020, asking for a second review for an extension on your last-filed 2018 subsection 216(4) return.
>
> I thoroughly reviewed your account and carefully considered the information you sent and the circumstances of your case.
>
> However, the information you sent does not show that there were circumstances preventing you from filing your 2018 return on time. I cannot give you an extension.
>
> Extensions to file are discretionary, which means you cannot file an objection about them. However, section 18.1 of the *Federal Court Act* allows you to request a judicial review of any discretionary decision the federal government makes.

[34] No mention was made of the Applicants' argument about the error made by the CRA in allocating withholding tax remittances to the wrong account or the delay by CRA in remediating

the problem with the remittances. It may well be the case, as the Respondent submits, that the error in the tax remittances was not made by the CRA or alternatively, notwithstanding the error made, that the Applicants could have filed the NR Returns before the filing deadline. However, that was not stated in the Decision.

[35] The Respondent further points to Mr. Osborne's statement in submissions to the CRA: "I was extremely busy and preoccupied at work…Compounding the delay was that I was not aware that my colleague was on vacation at that time." According to the Respondent, there is nothing unreasonable about the Minister determining that this was insufficient to warrant relief. However, one is simply not able to tell, from the very brief Decision, if any of those reasons cited now by the Respondent were indeed the conclusions behind Ms. Fournier's decision to refuse the extension request.

[36] The presumption that a decision maker has reviewed all the materials does not give licence for bootstrapping the reasons of the decision maker after the fact.

[37] The Respondent invites this Court to consider the legislative constraints facing the decision maker: *Vavilov*, at para 108. However, as the Respondent also notes, the statutory grant of authority under subsection 220(3) of the *ITA* provides the Minister with "broad discretion and places no constraints on the Minister's exercise of authority." While the statutory language signals to the Court to respect the Minister's discretion, on the other side of the coin, such broad discretion means the Minister can consider all relevant factors arising from the request. It is

unclear from the Decision what, if any, factors have been considered by Ms. Fournier in this case.

[38] Additionally, the Applicants point to the CRA's internal templates used in preparing reports, which include check boxes to indicate considerations raised by the taxpayer such as CRA error, CRA delay, financial hardship, or other extraordinary circumstances. However, the Applicants point out that the Fact Reports for both Mr. Osborne and Ms. Ray failed to check the boxes for "CRA error", "CRA delay" or "financial hardship", even though each of these phrases was expressly cited in the Applicants' request.

[39] In the Fact Reports, the "Client(s) Reasons" section stated only "[t]he non-resident says that he had a lot going on & missed the deadline." Elsewhere, the Fact Reports state that the Applicants were "waiting for the pmts to be allocated to the correct account before they filed the return", but nowhere do they address the taxpayers' arguments about CRA errors, CRA delays, or financial hardship. According to the Applicants, this is a completely inadequate and inaccurate distillation of the concerns they had submitted.

[40] The Applicants submit that the decision maker, Ms. Fournier, was led into error by the Fact Reports prepared by Ms. Burton, as the Reports failed to accurately summarize their concerns. In light of these errors, the Applicants argue that there cannot be said to exist an "internally coherent and rational chain of analysis" as *Vavilov* requires. Further, the Applicants argue that these errors demonstrate a failure in the three-level review process, similar to *Shantakumar v Attorney General of Canada*, 2018 FC 677 [*Shantakumar*] at paras 20-23. In that

case, “both minor and more serious errors appear[ed] on the face of the second-level report”, although “this alone [did] not constitute a reviewable error” but rather was considered unreasonable in conjunction with the Minister’s failure to consider the applicant’s submissions: *Shantakumar*, at paras 20-21.

[41] The Respondent counters that the recommendation of the Fact Reports connects directly to the central concern raised by the parties because the applicants were able to file the NR Returns but chose not to do so. I find this position belies the multiple errors that are contained in the Reports.

[42] In addition, the Respondent submits any alleged errors in the Fact Reports are peripheral to the Decision, and were corrected by the decision maker, who would have had before her a copy of the Applicants’ submissions. The Applicants cannot rely on the affidavit and evidence of Ms. Kring, argues the Respondent, because she was not the decision maker and cannot speak for Ms. Fournier.

[43] The problem with the Respondent’s argument, in my view, is two-fold. First, there is nothing in the record to support the Respondent’s position that Ms. Fournier has sought to correct the errors made in the first two tiers of review. Second, the final decision issued by Ms. Fournier was based on the draft decision prepared by Ms. Burton, the first level reviewer. If Ms. Fournier was indeed aware of, and has sought to correct the errors made by the other two reviewers, it begs the question as to why she then chose to use the same refusal letter drafted by Ms. Burton, whose prepared reports did not address the submissions made by the Applicants.

[44] I need not refer to the various CRA policies cited by the parties, as I do not find them relevant. On the one hand, the fairness policy referred to by the Applicant does not apply to section 216 returns. On the other, the decision to deny the extension was not based on the CRA's Subsection 216 Late-Filing Policy, which does not apply if an NR undertaking has been submitted, as the Respondent has noted.

[45] Finally, the Applicants submit that the Decision failed to consider the financial hardship associated with a tax burden of $10,652.56, which is disproportionate given a nine-day filing delay by taxpayers with "very good" compliance history and who were unfamiliar with their first experience filing NR Returns. I reject this argument as I agree with the Respondent that the Applicants have provided insufficient submissions on this issue, other than asserting that there was hardship. The case of *Takenaka v Canada (Attorney General)*, 2018 FC 347 cited by the Applicants can be distinguished on the facts, as in that case financial hardship was a central concern raised by the applicant with more fulsome submissions.

VI. Remedy Requested

[46] The Applicants' primary request is that the Court permit the filing of the NR Returns nine days late, citing *Vavilov* at para 142: "[d]eclining to remit a matter to the decision maker may be appropriate where it becomes evident…that a particular outcome is inevitable and that remitting the case would therefore serve no useful purpose."

[47] I agree with the Respondent that this is not an appropriate case for the Court to direct the Minister to permit the filing of the NR Returns. There exist certain evidentiary gaps, including

the source of the error concerning the misallocation of the remittances. There is also insufficient submissions and evidence with respect to financial hardship. To what extent these various factors would affect the Minister's exercise of her discretion, is not up to the Court to decide.

[48] I will therefore set aside the Decision and refer the matter back for redetermination by a different decision maker. In so doing, I encourage the Minister to provide an opportunity for the Applicants to make further submissions, and the parties to sort out the mystery behind the allocation errors.

VII. Conclusion

[49] The application for judicial review is allowed and the matter is referred back for redetermination by a different decision maker.

[50] There is no order as to costs.

JUDGMENT in T-499-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed.
2. The matter is referred back for redetermination by a different decision maker.
3. There is no order as to costs.
4. The style of cause will be amended to indicate The Attorney General of Canada as the Respondent.

"Avvy Yao-Yao Go"
Judge

APPENDIX A

***Income Tax Act* (R.S.C., 1985, c. 1 (5th Supp.))**
***Loi de l'impôt sur le revenu* (L.R.C. (1985), ch. 1 (5e suppl.))**

Tax on Income from Canada of Non-resident Persons	**Impôt sur le revenu de personnes non-résidentes provenant du Canada**
Alternatives re rents and timber royalties	**Choix relatif aux loyers et redevances forestières**
216 (1) If an amount has been paid during a taxation year to a non-resident person or to a partnership of which that person was a member as, on account of, in lieu of payment of or in satisfaction of, rent on real or immovable property in Canada or a timber royalty, that person may, within two years (or, if that person has filed an undertaking described in subsection (4) in respect of the year, within six months) after the end of the year, file a return of income under Part I for that year in prescribed form. On so filing and without affecting the liability of the non-resident person for tax otherwise payable under Part I, the non-resident person is, in lieu of paying tax under this Part on that amount, liable to pay tax under Part I for the year as though	**216 (1)** Dans le cas où une somme a été versée au cours d'une année d'imposition à une personne non-résidente ou à une société de personnes dont elle était un associé, au titre ou en paiement intégral ou partiel de loyers de biens immeubles ou réels situés au Canada ou de redevances forestières, la personne peut, dans les deux ans suivant la fin de l'année ou, si elle a fait parvenir au ministre l'engagement visé au paragraphe (4) pour l'année, dans les six mois suivant la fin de l'année, produire sur le formulaire prescrit une déclaration de revenu en vertu de la partie I pour l'année. Indépendamment de son obligation de payer l'impôt payable par ailleurs en vertu de la partie I, la personne est dès lors tenue, au lieu de payer l'impôt en vertu de la présente partie sur ce montant, de payer l'impôt en vertu de la partie I pour l'année comme si :
(a) the non-resident person were a person resident in Canada and not exempt from tax under section 149;	**a)** elle était une personne résidant au Canada et non exonérée de l'impôt en vertu de l'article 149;
(b) the non-resident person's income from the non-resident person's interest in real property, or real right in immovables, in Canada and interest in, or for civil law right in, timber resource properties and timber limits in Canada, and the non-resident person's share of the income of a	**b)** son revenu tiré de ses droits réels sur des immeubles, ou de ses intérêts sur des biens réels, situés au Canada et de ses intérêts ou, pour l'application du droit civil, de ses droits sur des avoirs forestiers et des concessions forestières situés au Canada, ainsi que sa part du revenu tiré par une société de personnes

partnership of which the non-resident person was a member from its interest in real property, or real right in immovables, in Canada and interest in, or for civil law right in, timber resource properties and timber limits in Canada, were the non-resident person's only income;	dont elle était un associé de droits réels sur des immeubles, ou d'intérêts sur des biens réels, situés au Canada et d'intérêts ou, pour l'application du droit civil, de droits sur des avoirs forestiers et des concessions forestières situés au Canada, constituaient sa seule source de revenu;
(c) the non-resident person were entitled to no deductions from income for the purpose of computing the non-resident person's taxable income; and	**c)** elle n'avait droit à aucune déduction sur son revenu pour le calcul de son revenu imposable;
(d) the non-resident person were entitled to no deductions under sections 118 to 118.9 in computing the non-resident person's tax payable under Part I for the year.	**d)** elle n'avait droit à aucune déduction en application des articles 118 à 118.9 dans le calcul de son impôt payable pour l'année en vertu de la partie I.
Idem	**Idem**
(2) Where a non-resident person has filed a return of income under Part I as permitted by this section, the amount deducted under this Part from	**(2)** Lorsqu'une personne non-résidente a produit une déclaration de revenu en vertu de la partie I ainsi que le permet le présent article, le montant déduit, en vertu de la présente partie :
(a) rent on real or immovable property or from timber royalties paid to the person, and	**a)** d'une part, sur les loyers de biens immeubles ou réels ou sur les redevances forestières qui lui sont payés;
(b) the person's share of the rent on real or immovable property or from timber royalties paid to a partnership of which the person is a member	**b)** d'autre part, sur sa part du loyer de biens immeubles ou réels ou de redevances forestières versés à une société de personnes dont elle est un associé,
and remitted to the Receiver General shall be deemed to have been paid on account of tax under this section and any portion of the amount so remitted to the Receiver General in a taxation year on the person's behalf in excess of the person's liability for tax under this Act for the year shall be refunded to the person.	et remis au receveur général, est réputé avoir été payé au titre de l'impôt exigé par le présent article et toute partie du montant ainsi remis au receveur général en son nom au cours d'une année d'imposition en plus de l'impôt qu'elle est tenue de payer en vertu de la présente loi, pour l'année, doit lui être remboursé.

Idem **(3)** Part I is applicable, with such modifications as the circumstances require, to payment of tax under this section.	**Idem** **(3)** La partie I s'applique, avec les adaptations nécessaires, au paiement de l'impôt dû en vertu du présent article.
Optional method of payment **(4)** If a non-resident person or, in the case of a partnership, each non-resident person who is a member of the partnership files with the Minister an undertaking in prescribed form to file within six months after the end of a taxation year a return of income under Part I for the year as permitted by this section, a person who is otherwise required by subsection 215(3) to remit in the year, in respect of the non-resident person or the partnership, an amount to the Receiver General in payment of tax on rent on real or immovable property or on a timber royalty may elect under this section not to remit under that subsection, and if that election is made, the elector shall,	**Choix du mode de paiement** **(4)** Lorsqu'une personne non-résidente ou, dans le cas d'une société de personnes, chaque personne non-résidente qui en est un associé présente au ministre, selon le formulaire prescrit, l'engagement de produire une déclaration de revenu en vertu de la partie I pour une année d'imposition dans les six mois suivant la fin de l'année, ainsi que le permet le présent article, une personne qui est par ailleurs tenue, en vertu du paragraphe 215(3), de remettre au cours de l'année, relativement à la personne non-résidente ou à la société de personnes, une somme au receveur général en paiement d'impôt sur le loyer de biens immeubles ou réels ou sur une redevance forestière peut choisir, en vertu du présent article, de ne pas faire de remise en vertu de ce paragraphe, auquel cas elle doit :
(a) when any amount is available out of the rent or royalty received for remittance to the non-resident person or the partnership, as the case may be, deduct 25% of the amount available and remit the amount deducted to the Receiver General on behalf of the non-resident person or the partnership on account of the tax under this Part; and	**a)** lorsqu'un montant quelconque de loyer ou de redevance reçu pour être remis à la personne non-résidente ou à la société de personnes est disponible, en déduire 25 % et remettre la somme déduite au receveur général pour le compte de la personne non-résidente ou de la société de personnes, au titre de l'impôt prévu par la présente partie;
(b) if the non-resident person or, in the case of a partnership, a non-resident person who is a member of the partnership	**b)** si la personne non-résidente ou, dans le cas d'une société de personnes, une personne non-résidente qui en est un associé :

(i) does not file a return for the year in accordance with the undertaking, or **(ii)** does not pay under this section the tax the non-resident person or member is liable to pay for the year within the time provided for payment, pay to the Receiver General, on account of the non-resident person's or the partnership's tax under this Part, on the expiration of the time for filing or payment, as the case may be, the full amount that the elector would otherwise have been required to remit in the year in respect of the rent or royalty minus the that the elector has remitted in the year under paragraph 216(4)(a) in respect of the rent or royalty.	**(i)** soit ne produit pas de déclaration pour l'année conformément à l'engagement qu'elle a présenté au ministre, **(ii)** soit ne paie pas l'impôt qu'elle est tenue de payer pour l'année, en vertu du présent article, dans le délai imparti à cette fin, remettre au receveur général, au titre de l'impôt de la personne non-résidente ou de la société de personnes en vertu de la présente partie, dès l'expiration du délai prévu pour la production de la déclaration ou pour le paiement de l'impôt, la totalité de la somme qu'elle aurait par ailleurs été tenue de remettre au cours de l'année au titre du loyer ou de la redevance, diminuée des montants qu'elle a remis au cours de l'année à ce titre en vertu de l'alinéa a).

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-499-21
STYLE OF CAUSE:	ROBERT OSBORNE AND JESSICA RAY v THE ATTORNEY GENERAL OF CANADA
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APPEARANCES:

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