

Federal Court



Cour fédérale

Date: 20110608

Docket: ITA-5256-09

Citation: 2011 FC 651

**BETWEEN:**

**IN THE MATTER OF THE *INCOME TAX ACT*,  
AND  
IN THE MATTER OF ASSESSMENTS BY THE **Applicant**  
MINISTER OF NATIONAL REVENUE  
UNDER THE *INCOME TAX ACT***

**Against**

**9088-2028 QUÉBEC INC. **Judgment  
debtor****

**AND**

**87220 CANADA LTÉE **Default  
garnishee****

[ENGLISH TRANSLATION]

**ASSESSMENT OF COSTS – REASONS**

**ASSESSMENT OFFICER JOHANNE PARENT**

[1] On November 19, 2009, the Court issued a final garnishment order, with costs. On February 28, 2011, counsel for the Crown submitted its bill of costs to the Court. Directions were given on March 3 and 14, 2011, informing the parties that the assessment of costs would proceed in writing and of the time limit for filing submissions.

[2] To support the bill of costs, written submissions and the affidavit of Julie S. Aubry justifying the disbursements were filed in the Court record. The judgment debtor and default garnishee did not file any submissions or requests to extend the time with the Court Registry.

[3] Consequently, I will assess the bill of costs pursuant to the *Federal Courts Rules*, Tariff B and the observations of my colleague in *Dahl v. Canada*, 2007 FC 192 (AO) at paragraph 2:

Effectively, the absence of any relevant representations by the Plaintiff, which could assist me in identifying issues and making a decision, leaves the bill of costs unopposed. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by an assessment officer stepping away from a position of neutrality to act as the litigant's advocate in challenging given items in a bill of costs. However, the assessment officer cannot certify unlawful items, i.e. those outside the authority of the judgment and the Tariff.

[4] The units claimed for preparation and filing of the originating document (item 1); preparation and filing of a contested motion for a final garnishment order (item 5); the appearance of counsel on the motion (item 6); services after judgment (item 25); and assessment of costs (item 26) are allowed as claimed.

[5] About the claim for preparation and filing of a motion to obtain an interim garnishment order, the Court, in its October 14, 2009, decision, ordered the garnishee to pay costs upon failure to produce an affidavit. Upon reading the file, I note that the garnishee produced no affidavit. Since the claim concerns a non-originating motion, the units claimed for item 1 for preparing and filing a motion to obtain an interim garnishment order are allowed, but at the maximum provided by Tariff B under item 4 (preparation and filing of an uncontested motion).

[6] The justification of the disbursements claimed in the bill of costs can be found in Julie S. Aubry's affidavit. The disbursements are undisputed and are considered necessary charges to the conduct of this matter. The amounts are justified and reasonable and will thus be allowed.

[7] The Crown's bill of costs is allowed in the amount of \$2,821.01.

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"Johanne Parent"  
Assessment Officer

Toronto, Ontario  
June 8, 2011

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** ITA-5256-09

**STYLE OF CAUSE:** IN THE MATTER OF THE *INCOME TAX ACT*,  
AND IN THE MATTER OF  
ASSESSMENTS BY THE MINISTER  
OF NATIONAL REVENUE UNDER THE  
*INCOME TAX ACT* v. 9088-2028  
QUÉBEC INC. AND 87220 CANADA LTÉE

**ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF  
THE PARTIES**

**REASONS FOR ASSESSMENT BY:** ASSESSMENT OFFICER  
JOHANNE PARENT

**DATED:** June 8, 2011

**WRITTEN SUBMISSIONS:**

Luc Vaillancourt FOR THE APPLICANT

No written submissions FOR THE JUDGMENT DEBTOR

No written submissions FOR THE DEFAULT GARNISHEE

**SOLICITORS OF RECORD:**

Myles J. Kirvan FOR THE APPLICANT  
Deputy Attorney General of Canada

N/A FOR THE JUDGMENT DEBTOR

N/A FOR THE DEFAULT GARNISHEE