

Federal Court of Appeal



Cour d'appel fédérale

Date: 20150929

Docket: A-377-13

Citation: 2015 FCA 210

**CORAM: GAUTHIER J.A.
WEBB J.A.
NEAR J.A.**

BETWEEN:

ALEXANDER DI MAURO

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on September 29, 2015.
Judgment delivered from the Bench at Toronto, Ontario, on September 29, 2015.

REASONS FOR JUDGMENT OF THE COURT BY:

WEBB J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Toronto, Ontario, on September 29, 2015).

WEBB J.A.

[1] Alexander Di Mauro appeals the Orders of Campbell, J. of the Tax Court of Canada striking out his Fresh Notices of Appeal dated May 22, 2013 and his Further Fresh Notices of Appeal dated October 16, 2013 for Tax Court Numbers 2012-3399(IT)I and 2012-4035(IT)G

that he had filed in relation to assessments or reassessments under the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), (the Act).

[2] The Appellant confirmed at the hearing of this appeal that he is now restricting his appeal to the striking of the parts of his notices of appeal related to the assessment of penalties under subsection 163(2) of the Act.

[3] We are of the view and the crown agrees that there was no basis to strike the parts of the notices of appeal that are related to the assessment of penalties under subsection 163(2) of the Act (*Ian E. Brown v. The Queen*, 2014 FCA 301, [2014] F.C.J. No. 1302).

[4] Accordingly, Mr. Di Mauro's appeal will be allowed, with costs to the Respondent in the amount of \$500, and his appeals before the Tax Court of Canada will be reinstated but only with respect to the issue of whether penalties under subsection 163(2) of the Act should have been assessed.

[5] Since the Further Fresh Notices of Appeal dated October 16, 2013 replaced the Fresh Notices of Appeal dated May 22, 2013, only the Further Fresh Notices of Appeal dated October 16, 2013 will be addressed. Thus the Orders of the Tax Court Judge will be amended to read as follows:

- a) Those parts of the Further Fresh Notices of Appeal dated October 16, 2013 for Tax Court Numbers 2012-3399(IT)I and 2012-4035(IT)G that do not relate to the assessment of penalties under subsection 163(2) of the Act are struck; and

- b) Mr. Di Mauro shall pay costs to the Respondent in the amount of \$500 in respect to both appeals: 2012-4035(IT)G and 2012-3399(IT)I.

"Wyman W. Webb"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-377-13

**APPEAL FROM A JUDGMENT OF THE HONOURABLE MADAM JUSTICE
CAMPBELL OF THE TAX COURT OF CANADA, DATED OCTOBER 25, 2013,
DOCKET NUMBERS 2012-4035(IT)G AND 2012-3399(IT)I**

STYLE OF CAUSE: ALEXANDER DI MAURO v. HER
MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: SEPTEMBER 29, 2015

REASONS FOR JUDGMENT OF THE COURT BY: GAUTHIER J.A.
WEBB J.A.
NEAR J.A.

DELIVERED FROM THE BENCH BY: WEBB J.A.

APPEARANCES:

Alexander Di Mauro FOR THE APPELLANT

H. Annette Evans FOR THE RESPONDENT
Rishma Bhimji

SOLICITORS OF RECORD:

Self-represented FOR THE APPELLANT

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada