

Date: 20090303

Docket: A-68-08

Citation: 2009 FCA 63

**CORAM: DÉCARY J.A.
SEXTON J.A.
BLAIS J.A.**

BETWEEN:

VASUNDARA RAGHAVAN

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on March 3, 2009.

Judgment delivered from the Bench at Toronto, Ontario, on March 3, 2009.

REASONS FOR JUDGMENT OF THE COURT BY:

BLAIS J.A.

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REASONS FOR JUDGMENT

BLAIS J.A.

[1] At issue in this case is whether the appellant, Vasundara Raghavan, can deduct certain business expenses in excess of revenue reported in the 2001, 2002 and 2003 taxation years based on whether the appellant undertook a *bona fide* business venture during those years, or, as the respondent, Her Majesty the Queen, claims, whether she simply undertook to manufacture tax deductions for those years.

[2] The first purported business carried on by the appellant during the relevant years was described as a website consulting business which provided assistance to individuals setting up their own websites. It started in 2001 and ceased its operations approximately two years later. The second business was described as developing an internet-based interactive educational program to be used by children and parents. The business is still in operation in the development stage and is expected to generate revenues at some point in the future.

[3] Between 2001 and 2003, the appellant sought to deduct business losses totalling more than \$65,394.47. The majority of the business expenses she claimed were in the form of hourly wages paid to the appellant's three children between 14 and 23 years old at the time of the operation and to Ms. Sudha Kothandaraman, the appellant's former babysitter. These wages totalled approximately \$61,000 over the relevant taxation years and the wages were paid in cash on an irregular basis. Other expenses included costs for computers and supplies, home related expenses, life insurance premiums and the appellant's husband's professional engineering dues.

[4] The appellant claims that the website consulting business brought in gross revenues of \$3,300.55. The educational program business did not bring in any revenue as it was still in development.

[5] The Minister of National Revenue disallowed the business expenses claimed in excess of the revenues reported for each taxation year. The respondent suggests that the appellant was not engaged in a *bona fide* business and is simply attempting to manufacture tax deductions.

[6] At trial, Justice Woods concluded that the website consulting business was not a *bona fide* commercial activity and dismissed the appeals for 2001 and 2002 taxation years. She further went on to find that the educational program was a commercial activity but only allowed \$2,000 in deductions. In coming to her decision, Justice Woods made several strong statements regarding the inconsistent, vague and unreliable nature of the evidence and the testimony of the appellant and her husband.

[7] We are of the opinion that the Tax Court Judge followed the required analysis by determining that there was no commercial activity with respect to the website consulting business but accepted that there was an educational program development business by giving the appellant the benefit of the doubt.

[8] In our view, the trial judge carefully reviewed the evidence provided by the parties; in reviewing the trial judgment, we see no error that justifies the intervention of our Court.

[9] In conclusion, the appellant's arguments fall short of demonstrating that the Tax Court Judge made a palpable and overriding error or applied the incorrect legal test in her judgment. On this basis I would dismiss the appeal with costs.

“Pierre Blais”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-68-08

STYLE OF CAUSE: VASUNDARA RAGHAVAN v. HER MAJESTY THE
QUEEN

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 3, 2009

**REASONS FOR JUDGMENT
OF THE COURT BY:** (DÉCARY, SEXTON & BLAIS JJ.A.)

**DELIVERED FROM
THE BENCH BY:** BLAIS J.A.

APPEARANCES:

Mrs. Vasundara Raghavan FOR THE APPELLANT

Mr. Craig Maw FOR THE RESPONDENT

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