

BETWEEN:

VAMARAJAH VAMATHEVAN,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

Application heard on December 2, 2015 at Toronto, Ontario.

Before: The Honourable Justice Patrick Boyle

Appearances:

For the Applicant: The Applicant himself

Counsel for the Respondent: Sebastian Budd

ORDER

UPON hearing an application for an Order extending the time within which a Notice of Objection with respect to an assessment dated April 2, 2014 made under the *Excise Tax Act* may be served;

AND UPON hearing from the parties;

IT IS ORDERED that the application is dismissed, without costs.

Signed at Ottawa, Canada, this 22nd day of December 2015.

“Patrick Boyle”

Boyle J.

Docket: 2015-4170(GST)APP

BETWEEN:

VAMARAJAH VAMATHEVAN,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

EDITED VERSION OF TRANSCRIPT
OF ORAL REASONS FOR ORDER

Let the attached edited transcript of the Reasons for Order delivered orally from the Bench at Toronto, Ontario on December 2, 2015 be filed. I have edited the transcript (certified by the Court Reporter) for style, clarity and to make minor corrections only. I did not make any substantive changes.

Signed at Ottawa, Canada, this 22nd day of December 2015.

“Patrick Boyle”

Boyle J.

Citation: 2015 TCC 337

Date: 20151222

Docket: 2015-4170(GST)APP

BETWEEN:

VAMARAJAH VAMATHEVAN,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

(Application heard and decision rendered orally from the Bench
on December 2, 2015 at Toronto, Ontario.)

Boyle J.

[1] Mr. Vamathevan seeks to file an objection to a New Housing Rebate GST/HST assessment beyond the normal 90-day period. The issue of whether he is within the further one-year period within which CRA or the Court may permit late filing is complicated. It is complicated by the fact that Mr. Vamathevan had the house number of his house changed, and he sold the new house the year after he bought it, and also because his New Housing Rebate form wrongly described the house as number 7, not number 3.

[2] When the assessment was issued, the only other address CRA had was his former house on Rensburg, from before moving to Wardlaw Place. CRA had number 7 Wardlaw for his GST account, and the assessment was addressed to number 7. This may have come from the rebate application which was placed in evidence and which Mr. Vamathevan says was prepared by his lawyer.

[3] When the assessment was issued, Mr. Vamathevan had not yet filed his 2013 tax return in which he noted his address for the first time as number 3 Wardlaw Place. As far as CRA otherwise knew, he was still at his old address.

[4] The letter from the City of Vaughan to Mr. Vamathevan approving the change of house number expressly informs him of the need to file a Canada Post change of address form to avoid mail being returned to sender or otherwise undelivered.

[5] From the evidence, at no point, either when changing the number of the house or after selling the house, did Mr. Vamathevan have Canada Post redirect his mail nor did he inform the Canada Revenue Agency except in filing his 2013 personal income tax return in 2014.

[6] According to the taxpayer, the new owner of number 3 forwarded him the assessment sent to number 7 very shortly after the one-year-and-90-day period. This is certainly possible, but even if this were the case, of which the evidence does not satisfy me, it would be insufficient because the date of mailing to the taxpayer's address starts the 90-day-and-one-year period.

[7] The evidence establishes that the assessment was properly issued to the correct address of the taxpayer according to CRA's records from the taxpayer. This Court therefore has no jurisdiction whatsoever to allow an extension as the one-year-and-90-day period had passed before he first wrote to the CRA wanting to object. I therefore must dismiss the application.

[8] The only thing that I can add is that Mr. Vamathevan may wish to seek advice on considering to pursue this problem with his lawyer or whoever filled in the former house number 7 on his GST New Housing Rebate application.

[9] There is nothing this Court is empowered to do in this regard. The appeal is dismissed this morning.

Signed at Ottawa, Canada, this 22nd day of December 2015.

“Patrick Boyle”

Boyle J.

CITATION: 2015 TCC 337

COURT FILE NO.: 2015-4170(GST)APP

STYLE OF CAUSE: VAMARAJAH VAMATHEVAN AND
HER MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: December 2, 2015

REASONS FOR ORDER BY: The Honourable Justice Patrick Boyle

DATE OF ORDER: December 22, 2015

APPEARANCES:

For the Applicant: The Applicant himself

Counsel for the Respondent: Sebastian Budd

COUNSEL OF RECORD:

For the Applicant:

Name:

Firm:

For the Respondent: William F. Pentney
Deputy Attorney General of Canada
Ottawa, Canada