

Docket: 2020-14(IT)I

BETWEEN:

AUSTIN MILLER

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Appeal heard on March 3, 2022 at Toronto, Ontario

Before: The Honourable Justice B. Russell

Appearances:

For the Appellant: The Appellant Himself

Counsel for the Respondent: Benjamin Chamberland

JUDGMENT

The appeals of the two December 12, 2019 reassessments for the Appellant's 2016 and 2017 taxation years respectively are each dismissed, without costs.

Signed at Halifax, Nova Scotia, this 9th day of June 2022.

“B. Russell”

Russell J.

Citation: 2022 TCC 61
Date: June 9, 2022
Docket: 2020-14(IT)I

BETWEEN:

AUSTIN MILLER

Appellant

and

HER MAJESTY THE QUEEN

Respondent

REASONS FOR JUDGMENT

Russell J.

[1] The appellant Austin Miller has appealed, electing the informal procedure, two reassessments raised December 12, 2019 by the Minister of National Revenue (Minister) under the federal *Income Tax Act*, denying certain claimed business expenses for Mr. Miller’s 2016 and 2017 taxation years respectively.

[2] At the hearing Mr. Miller represented himself and was the sole witness. He testified that during the subject taxation years he operated two sole proprietorships – one engaged in buying and selling used cars and car parts, and the other engaged in preparing clients’ personal income tax returns. This matter focuses on the former business.

[3] Regarding that business, Mr. Miller testified that in 2016 he purchased a used 2012 Honda Civic in Canada for \$7,000. He produced a Used Car Dealers Association of Ontario “used vehicle bill of sale” for this transaction dated August 15, 2016 (Ex. A-1). This document, said by the respondent to have been hand-written by Mr. Miller, states that the car was to be exported. His intention was to ship it to Jamaica (where he previously had resided) for re-sale.

[4] Also submitted in evidence (Ex. A-4) was a Jamaica Customs Agency “Payment Receipt” issued September 18, 2016, confirming payment of Jamaican customs duties and related charges totalling (JMD) \$524,574.47 ((CDN) \$6,242.55). It shows Mr. Miller as “declarant”, with address being an auto sales company in Kingston, Jamaica.

[5] The other page of Ex. A-4 is a Canada Revenue Agency (CRA) work-sheet entitled “Austin Miller – 2016 Business Income”. It includes the appellant’s handwritten statement that, “I [paid] \$7,000.00 for the car [and] \$6,242.55 to clear the car in Customs. \$1,500.00 to ship the car from Canada to Jamaica. The car was stolen and vandalized in Jamaica. The car is a total [write-off].”

[6] No documentation was submitted identifying the shipping cost of the vehicle to Jamaica or of the appellant’s own travel costs to get to Jamaica, nor was any clear explanation provided as to why he needed to be there to sell this sole vehicle.

[7] Mr. Miller testified that in January of 2017 the 2012 Honda Civic, by then in Jamaica, was stolen and extensively damaged, before the police found it.

[8] The extensively damaged vehicle was then stored in Jamaica until December 28, 2019, when it was sold as is to a Mr. Allen of Kingston for (JMD) \$500,000. Mr. Miller had a handwritten receipt (Ex. A-2) so dated confirming that transaction. As well, he had a handwritten receipt (Ex. A-3) so dated confirming his payment to the same individual of (JMD) \$300,000 for storage of the damaged vehicle since the January 2017 vandalism.

[9] Respondent’s counsel asked Mr. Miller whether he had any documentation relating to an insurance claim or any police report regarding the stolen and vandalized vehicle. He answered that there had been no insurance on the vehicle as the vehicle was in Jamaica simply to be sold, and that he had tried unsuccessfully to obtain a police report.

[10] He was told that only the dealer to whom he had shipped the car could obtain the police report, which person he said was unavailable in the U.S. Mr. Miller added that he had waited a full day to speak to a police officer to get a copy of the report, but without success. In any event, at the recent hearing no such documentation was presented.

[11] Mr. Miller also asserted that he had tried to claim \$2,000 in his 2016 return as a “travel” expense, as he had returned to Canada in February 2017. He had left necessary receipts in Jamaica so he felt he could not claim more than the \$2,000. It was not made clear what receipts he had to support the \$2,000 claim in his 2016 return. No such receipts were presented at the hearing.

[12] The appellant testified that he claimed total expenses in his 2017 return that he had not claimed in his 2016 return, as by 2017 he had retrieved relevant receipts, being part of a claim for \$17,500 under the heading “motor vehicle expenses”. The Minister had wholly denied that claim. Mr. Miller said that a U.S. cousin had paid for his travel cost to Jamaica and that he Mr. Miller had repaid him.

[13] Nevertheless, as stated, no receipts or related documentation pertaining to these matters were at all submitted at the hearing including to support any costs of travel by Mr. Miller to/from Jamaica or to support the cost of shipping the 2012 Honda Civic in 2016 to Jamaica.

[14] The respondent seeks that the appeal be dismissed, on the basis that no claims for expenses were satisfactorily proven.

[15] Mr. Miller stated that he particularly was concerned with obtaining deductions in respect of three receipts that he did have – the aforementioned receipt for the purchase of the Honda Civic in 2016; the aforementioned receipt for the payment of the Jamaica Customs Agency charge in 2016 for importing the car into Jamaica; and the aforementioned December 28, 2019 receipt for the (JMD) \$300,000 that he then had paid for storage since early 2017 of the damaged vehicle.

[16] The Reply, and the aforementioned one page CRA work-sheet titled “Austin Miller – 2016 Business Income” together reflect that for Mr. Miller’s 2016 taxation year CRA had accounted for both the \$7,000 expenditure to buy the 2012 Honda Civic and the JMD CDN \$6,242.55 Jamaican Customs expenditure for importing that vehicle to Jamaica.

[17] Those two amounts total \$13,242.55, which exact amount the Minister recognized as the appellant’s 2016 “closing inventory” total (see schedule “A” of the Reply) in computing Mr. Miller’s cost of goods sold, and from that determining ultimately his net income for his 2016 taxation year.

[18] The \$13,242.55 amount of “closing inventory” reduced dollar for dollar the calculation of Mr. Miller’s 2016 net income. Therefore Mr. Miller received full recognition and credit for the two 2016 expenditures with which he was concerned.

[19] The third and final expense receipt about which Mr. Miller was concerned was the December 28, 2019 receipt for the storage payment. As his 2019 taxation year was not in issue in this appeal, I am unable to consider that expense.

[20] No receipts were submitted pertaining to the 2017 taxation year.

[21] The appeal of the respective December 12, 2019 reassessments for the 2016 and 2017 taxation years will be dismissed, without costs.

Signed at Halifax, Nova Scotia, this 9th day of June 2022.

“B. Russell”

Russell J.

CITATION: 2022 TCC 61
COURT FILE NO.: 2020-14(IT)I
STYLE OF CAUSE: AUSTIN MILLER AND THE QUEEN
PLACE OF HEARING: Toronto, Ontario
DATE OF HEARING: March 3, 2022
REASONS FOR JUDGMENT BY: The Honourable Justice B. Russell
DATE OF JUDGMENT: June 9, 2022

APPEARANCES:

For the Appellant: The Appellant Himself
Counsel for the Respondent: Benjamin Chamberland

COUNSEL OF RECORD:

For the Respondent: François Daigle
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