

BETWEEN:

THEODORA DIMOU,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Appeal heard on April 11-13, 2023, at Toronto, Ontario
Written submissions completed August 1, 2023

Before: The Honourable Justice Bruce Russell

Appearances:

For the Appellant: The Appellant herself

Counsel for the Respondent: George Lin

AMENDED JUDGMENT

PURSUANT to the Reasons for Judgment, concurrently dated;

NOW THEREFORE THIS COURT ORDERS:

1. This appeal of the reassessments raised April 26, 2018 of the Appellant's 2011, 2012 and 2013 taxation years is hereby allowed, and the said reassessments are referred back to the Minister of National Revenue for reconsideration and reassessments on the following bases:
 - a. the Appellant in her 2011 taxation year had deductible expenses of \$61,922.53;
 - b. the Appellant in her 2012 taxation year had deductible expenses of \$52,50.20; and

c. the Appellant in her 2013 taxation year had deductible expenses of \$66,744.36.

2. The parties may each make brief submissions (maximum 5 pages) as to costs, to be received by the Court on or before December 16, 2024.

This Amended Judgment is issued in substitution of the Judgment dated October 31, 2024.

Signed at Halifax, Nova Scotia, this 5th day of November, 2024.

“B. Russell”

Russell J.

Citation: 2024 TCC 144
Date: 20241031
Docket: 2018-2728(IT)G

BETWEEN:

THEODORA DIMOU,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR JUDGMENT

Russell J.

I. Introduction:

[1] Ms. Theodora Dimou appeals reassessments of her 2011, 2012 and 2013 taxation years, raised April 26, 2018 by the Minister of National Revenue (Minister) under the federal *Income Tax Act* (Act).

II. Assessments & Reassessments:

[2] Ms. Dimou did not file tax returns for her 2011, 2012 and 2013 taxation years (the subject taxation years) by their respective due dates, being June 15 of 2012, 2013 and 2014.

[3] On February 1, 2016, the Minister arbitrarily assessed Ms. Dimou per subsection 152(7) of the Act for each of the subject taxation years. Also, for each of the subject taxation years the Minister assessed per subsection 162(1) of the Act a penalty for failure to file a return of income by the designated due date.

[4] On February 29, 2016, Ms. Dimou late-filed a return for each of the subject taxation years.

[5] On February 3, 2017, the Minister reassessed each of the subject taxation years.

[6] On February 17, 2017, Ms. Dimou served notices of objection respecting the February 3, 2017 reassessments.

[7] On April 26, 2018, the Minister again reassessed Ms. Dimou's subject taxation years. These reassessments reflected gross business incomes of \$117,606 (2011 taxation year), \$101,581 (2012 taxation year) and \$95,422 (2013 taxation year).

[8] On July 20, 2018, Ms. Dimou appealed each of the three April 26, 2018 reassessments, which appeals are now collectively before this Court.

[9] In raising the April 26, 2018 reassessments, the Minister recognized that during the subject taxation years, Ms. Dimou concurrently had carried on three unincorporated businesses, operating under the names, "Dora's Web World", "Just Exteriors" and "Events You Want".¹ Each business was registered for purposes of the Goods and Services Tax/Harmonized Sales Tax (GST/HST) under the federal *Excise Tax Act*. Sales were reported for GST/HST purposes during the subject taxation years.

[10] At the hearing and subsequently in written submissions, Ms. Dimou made frequent references to an anxiety disorder that afflicted her.

III. Issues:

[11] There are two issues:

- a. whether the Appellant's net business income for each of the subject taxation years was correctly reassessed; and,
- b. whether the Minister rightly levied late filing penalties.

[12] The dispute between the parties essentially concerned the Minister's denial of various claimed business expenses, on the basis of inadequate books and records regarding same.

¹ Respondent's Reply, para. 10(a)

[13] Ms. Dimou maintained that in 2011, 2012 and 2013 she had not made the net income for which she was reassessed. Her basis for stating this was that the Minister had wrongly denied various of her claimed deductible expenses.

IV. Analysis:

[14] It is well established that the Appellant taxpayer carries the onus of proof in establishing deductible expenses claimed in earning of taxable income. That party is expected to no better than the Minister as to amount and purpose of each such expense. The taxpayer is also expected to have maintained adequate books and records to confirm such expenditures.

[15] Ms. Dimou, a young entrepreneur and non-lawyer who represented herself, called several witnesses. Her brothers Messrs. Iosif and Nick Dimou, and Ms. Isra Stefanova and Ms. Christofina Alexiou were non-arm's length witnesses who testified without specificity as to claimed expenses. As stated in the Respondent's written submissions, "[g]enerally they offered hearsay, character and opinion evidence that were not relevant to the issues...They made vague and broad assertions without proof."²

[16] Also, Ms. Dimou called Ms. Barbara Jesson as a witness. Ms. Jesson was a client of Ms. Dimou in 2011 in respect of her Just Exteriors business. Work done included residential exterior walls repair, referred to as "parging", painting Ms. Jesson's office and residential landscaping work including creation of a French drain.³

[17] Ms. Jesson readily confirmed that Ms. Dimou had engaged labourers in doing this work, although Ms. Dimou herself did much of the work herself, as well as a handyman hired directly by Ms. Jesson who paid him \$25 per hour.

[18] Ms. Dimou did not have records confirming what she claimed to have paid the workers she retained for this work, nor did she call any as witnesses. She said they were difficult to work with and on two occasions had walked off the job. She stated also, albeit in her written representations, that a certain worker or workers had refused to give her receipts and told her to make them herself.

² Respondent's Written Submissions, para. 17

³ Transcript, vol. 1, pp. 110-114

[19] Ms. Dimou testified that some of the labourers when asked for receipts told her to make her own receipts. The Minister had allowed \$5,732.04 in the 2011 taxation year as “salaries, wages and benefits” and \$777.15 for each of “subcontracts” and “costs of goods sold”.

[20] Ms. Dimou claimed \$41,744 in subcontract work in respect of her “Just Exteriors” business in the 2011 taxation year, all of which the Minister denied, due to lack of records.

[21] Ms. Dimou cited *Stewart v. The Queen*, 2021 TCC 94. In that matter my colleague Bocock J. observed that the taxpayer could not have completed all the contracting work himself. The Court accordingly accepted that half of the taxpayer’s claimed contractor expenses, albeit unsupported by receipts, should be allowed.

[22] Here, the Respondent sought to distinguish *Stewart* on the basis that the workers in that case were family members and working in cooperation with each other. In Ms. Dimou’s case, the workers or “helpers” were not family (except apparently in one situation after her hired labour had “walked out”).

[23] I do not see this as a particularly relevant distinction. If anything, in *Stewart* it should have been easier to obtain receipts from family members than from persons otherwise unknown to Ms. Dimou that she had engaged as labourers in 2011, and who worked as testified by both Ms. Dimou and Ms. Jesson. I do not doubt that Ms. Dimou paid these workers.

[24] In these circumstances, without Ms. Dimou having proper books and records to support her 2011 claim of \$41,744 for subcontractors, which claim the Minister totally denied, I am prepared to follow *Stewart* and allow Ms. Dimou one half of her \$41,744 claim (i.e., \$20,872) as additional deductible expenses for her 2011 taxation year.

[25] Moving on, Ms. Dimou argued that her gross business income of \$114,672, expressed in her 2011 tax income, included HST – and thus should be lower. However, this was disproved through other returns of hers (such as for GST/HST) showing total 2011 business income net of HST as being \$117,606 (\$22,895.89 + \$94,133.56 + \$577).

[26] Also, Ms. Dimou noted that on August 13, 2019 she had had a flood at her residence that destroyed receipts she had kept. On this basis, she claimed recognition of further expenses albeit without receipts said to have been lost in the flood. The

Minister declined to recognize such expenses, as there was no evidence that Ms. Dimou had sought replacement receipts (such as for insurance payments, for example). As well, she did not produce online receipts that she had said she had. Further, 2019 was a number of years after the three subject years. There had been substantial time and opportunity well prior to August 2019 to produce receipts for the 2011, 2012 and 2013 subject taxation years.

[27] I concur with these reasons for denying expense claims involving receipts said to have been lost in the 2019 residential flood.

[28] Also, in the absence of receipts, Ms. Dimou sought recognition of claimed expenses on the basis of credit card statements themselves. To this the Respondent responded that,

...[credit card] statements are dangerous to rely upon to allow any further expenses because they do not differentiate between expenses where a receipt was provided and expenses where a receipt was not provided. Expenses for which a receipt existed were mostly allowed as part of the conceded expenses....To allow expenses based on the statements poses a very probable risk of double counting. In addition, the auditor testified why the statements were inadequate as a proof of expense, stating, among other things, that statements without receipts or invoices meant that she could not verify what the expense was...⁴

[29] Additionally, Ms. Dimou acknowledged that credit card statements she had submitted to the CRA, were organized, “not very well”.⁵

[30] At the conclusion of the hearing, the Respondent conceded various additional claimed expenses, bringing the total of expenses accepted by the Respondent for the 2011, 2012 and 2013 taxation years to be, respectively, \$41,050.53 (from \$39,638.39), \$52,500.20 (from \$50,251.28) and \$66,744.36 (from \$66,094.36).

[31] The penalties assessed for late-filing of her returns for her 2011, 2012 and 2013 taxation years will remain. There was no evidence or submissions that these penalties had been wrongly applied.

V. Conclusion:

[32] Thus, the appeal will be allowed and Ms. Dimou will be allowed expenses for her 2011 taxation year of \$61,922.53 (i.e., \$20,872 + \$41,050.53); and will be

⁴ Respondent's Written Submissions, para. 23

⁵ Transcript, vol. 3, p.71

allowed expenses for her 2012 taxation year of \$52,50.20; and will be allowed expenses for her 2013 taxation year of \$66,744.36.

Signed at Halifax, Nova Scotia, this 31st day of October, 2024.

“B. Russell”

Russell J.

CITATION: 2024 TCC 144

COURT FILE NO.: 2018-2728(IT)G

STYLE OF CAUSE: THEODORA DIMOU AND HIS
MAJESTY THE KING

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: April 11-13, 2023

REASONS FOR JUDGMENT BY: The Honourable Justice Bruce Russell

DATE OF AMENDED
JUDGMENT: November 5, 2024

APPEARANCES:

For the Appellant: The Appellant herself

Counsel for the Respondent: George Lin

COUNSEL OF RECORD:

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