

Docket: 2013-4693(GST)APP

BETWEEN:

JOHANNES PETRUS DEETLEFS,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

Application heard on March 14, 2014 at Hamilton, Ontario

By: The Honourable Justice J.M. Woods

Appearances:

Agent for the Applicant: Leah Deetlefs
Counsel for the Respondent: Jan Jensen

ORDER

Upon application by Johannes Petrus Deetlefs for relief with respect to assessments made under the *Excise Tax Act* for certain periods in 2010 and 2011, the application is dismissed.

Signed at Ottawa, Ontario this 26th day of March 2014.

“J.M. Woods”

Woods J.

Citation: 2014 TCC 96
Date: 20140326
Docket: 2013-4693(GST)APP

BETWEEN:

JOHANNES PETRUS DEETLEFS,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

Woods J.

[1] The applicant, Johannes Petrus Deetlefs, filed a request with the Court that failed to specify the nature of the relief that he was seeking other than to state that further consideration was requested. The Registry scheduled the matter as an application to extend time for serving a notice of objection and the respondent filed a reply on this basis.

[2] Leah Deetlefs acted as her spouse's representative at the hearing and she was assisted by Wendy Beckley, her accountant.

[3] I asked Ms. Deetlefs to clarify the nature of the relief that was being sought. She informed the Court that the applicant was seeking confirmation that a notice of objection filed on November 21, 2013 with respect to assessments made under the *Excise Tax Act* for reporting periods in 2010 and 2011 was filed on time and therefore the notice of objection is valid.

[4] By way of background, the Canada Revenue Agency (CRA) had responded to the notice objection by letter dated December 6, 2013. In the letter, the applicant was informed that the notice of objection would not be accepted because it was filed more than 90 days after the relevant assessments were issued. The letter also stated that an extension of time to file an objection would not be granted because the objection was filed more than one year after the expiry of the period for filing the notice of objection.

[5] Ms. Deetlefs submits that the notice of objection was filed on time because it was filed immediately after the applicant became aware that a notice of objection was necessary.

Discussion

[6] Under section 301(1.1) of the *Excise Tax Act*, a notice of objection must be filed within 90 days of sending a notice of assessment. The respondent filed affidavit evidence to establish that the relevant assessments were mailed on August 15, 2011, January 27, 2012 and May 9, 2012.

[7] The notice of objection was served on November 21, 2013, which is clearly beyond the 90 day deadline for filing a notice of objection to any of the relevant assessments.

[8] Ms. Deetlefs submits that the 90 day deadline should start to run from the time that the taxpayer becomes aware that a notice of objection is necessary.

[9] Unfortunately for the applicant, the applicable legislation does not permit this result. The deadline for filing a notice of objection is strict. It must be filed within 90 days after the relevant notice of assessment has been sent to the taxpayer.

[10] It appears that Ms. Deetlefs corresponded with the Audit and Collection Departments rather than the Appeals Division after the assessments had been issued. It is unfortunate that Ms. Deetlefs did not realize that a notice of objection had to be sent to the Appeals Division within 90 days, or an application to extend time had to be filed within the following year, in order to preserve the applicant's objection and appeal rights. These steps were not taken.

[11] In the result, it is not possible to provide the relief that the applicant seeks and the application will be dismissed.

Signed at Ottawa, Ontario this 26th day of March 2014.

“J.M. Woods”

Woods J.

CITATION: 2014 TCC 96

COURT FILE NO.: 2013-4693(GST)APP

STYLE OF CAUSE: JOHANNES PETRUS DEETLEFS AND
HER MAJESTY THE QUEEN

PLACE OF HEARING: Hamilton, Ontario

DATE OF HEARING: March 14, 2014

REASONS FOR ORDER BY: The Honourable Justice J.M. Woods

DATE OF ORDER: March 26, 2014

APPEARANCES:

Agent for the Applicant: Leah Deetlefs
Counsel for the Respondent: Jan Jensen

COUNSEL OF RECORD:

For the Applicant:

Name:

Firm:

For the Respondent:

William F. Pentney
Deputy Attorney General of Canada
Ottawa, Ontario