

Federal Court



Cour fédérale

**Date: 20111031**

**Docket: GST-1463-05**

**Citation: 2011 FC 1241**

**BETWEEN:**

**IN THE MATTER OF *THE EXCISE TAX ACT*,  
R.S.C., 1985, c.E-15**

**and**

**IN THE MATTER OF AN ASSESSMENT OR  
ASSESSMENTS BY THE MINISTER OF  
NATIONAL REVENUE UNER *THE EXCISE  
TAX ACT*, AGAINST:**

**ALEXANDER TRAN  
(sometime known as QUO DUNG TRAN, DUNG  
TRAN, QUOC DUNG TRAN AND QUOC  
TRAN, sometime carrying on business as ASIAN  
ACUPUNCTURE)**

**REASONS FOR ASSESSMENT**

**Johanne Parent, Assessment Officer**

[1] On March 11, 2011, the Court ordered that the validity of the Writ of Seizure and Sale dated March 14, 2005, be extended, the whole with costs. Upon receipt of the Bill of Costs, directions were issued and sent to the Applicant, Mr. Tran and Mr. Tran's representative informing them that this assessment of costs would proceed in writing and of the deadline to file representations.

[2] Counsel for the Applicant filed the affidavit of Julie S. Aubry sworn June 23, 2011 within the prescribed timeframe. No other submissions were received by the Registry of the Court, nor was any request to extend the time to file submissions. In *Dahl v. Canada*, 2007 FC 192(A.O.), my colleague stated at paragraph 2:

Effectively, the absence of any relevant representations by the Plaintiff, which could assist me in identifying issues and making a decision, leaves the bill of costs unopposed. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by an assessment officer stepping away from a position of neutrality to act as the litigant's advocate in challenging given items in a bill of costs. However, the assessment officer cannot certify unlawful items, i.e. those outside the authority of the judgment and the Tariff.

[3] In accordance with the above referenced comments and considering the lack of challenge by the opposing party, I am prepared to determine the weight that should be given to the Items and disbursements submitted in the Bill of Costs.

[4] All assessable services claimed under Tariff B of the *Federal Courts Rules* are allowed as claimed.

[5] I examined the disbursements claimed along with the affidavit and the supporting material. They are all considered necessary charges to the conduct of this matter with the exception of the claim for Court costs for the filing of a Notice of Motion made ex parte. On the Bill of Costs, the assessment officer is referred to the Court file. I have reviewed the file as well as the Registry Fees under Tariff A of the *Federal Courts Rules* and I cannot find evidence of any Court fees paid upon

the filing of this motion. Therefore, I consider this disbursement not properly justified and the amount claimed will be denied. All other amounts are justified, reasonable and are therefore allowed as claimed.

[6] The Bill of Costs is allowed for a total amount of \$1,377.50.

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"Johanne Parent"  
Assessment Officer

Toronto, Ontario  
October 31, 2011

**FEDERAL COURT**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** GST-1463-05

**STYLE OF CAUSE:** **IN THE MATTER OF *THE EXCISE TAX ACT*,  
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**ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF  
THE PARTIES**

**REASONS FOR ASSESSMENT  
OF COSTS BY:**

JOHANNE PARENT, Assessment Officer

**DATED:** October 31, 2011

**REPRESENTATIONS:**

Maude Miron Bilodeau FOR THE APPLICANT

No representations provided FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Myles J. Kirvan FOR THE APPLICANT  
Deputy Attorney General of Canada

Gibsons LLP FOR THE RESPONDENT  
Ottawa, Ontario