

NOVA SCOTIA COURT OF APPEAL
**Cite as: Nova Scotia (Provincial Tax Commission) v.
Canadian Salt Co. Ltd., 1996 NSCA 231**

Freeman, Hart and Pugsley, JJ.A.

BETWEEN:

THE HEALTH SERVICES TAX ACT, R.S.N.S. 1989, c. 190, as amended)	Duncan R. Beveridge for the Appellant
)	
Appellant)	
- and -)	
)	Leanne M. Rodwell-Hayes for the Respondent
An Appeal of the Canadian Salt Company Limited of Assessment #61471 and proceeding bearing No. NSURB-TX-96-05)	
)	
Respondent)	Appeal Heard: December 2, 1996
)	
)	Judgment Delivered: December 2, 1996
)	

THE COURT: Appeal allowed with costs at \$1000.00 plus disbursements per oral reasons for judgment of Freeman, J.A.; Hart and Pugsley, JJ.A. concurring.

The reasons for judgment of the Court were delivered orally by:

FREEMAN, J.A.:

This is an appeal from a decision of the Nova Scotia Utility and Review

Board finding fans used in the ventilation system of the appellant's salt mine in Pugwash, N.S. to be exempt from taxation under the **Health Services Tax Act**, R.S.N.S. 1989, c. 198, but which did not include the electricity used in the operation of the fans within the exemption.

The fans were found exempt under s. 12(1)(o) of the **Act** which provides:

12(1) The following classes of tangible personal property are specifically exempted from the provisions of this **Act**:

(o) tangible personal property purchased by manufacturers, producers or processors of goods, or such other persons engaged in other commercial activities as are designated by the Minister, for use by them in the detection, measurement, prevention, treatment, reduction, removal, disposal or carrying away of pollutants to water, soil or air.

Electricity is defined as tangible personal property under s. 2(t)(ii) of the **Act**.

The failure by the Board to include electricity in the exemption may have been an oversight; there is no justification for not including it.

The Board's order merely states that the Order of the Provincial Tax Commissioner is varied, presumably in accordance with the Board's decision.

The appeal is allowed with costs.

The Board's decision is varied to include electricity used to operate the fans which are found exempt under s. 12(1)(o). It is not necessary to consider the further basis for exemption found by the Board under s. 12(1)(m) and s. 12(1)(n).

Costs are fixed at \$1000.00 plus disbursements.

Freeman, J.A.

Concurred in:

Hart, J.A.

Pugsley, J.A.

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THE HEALTH SERVICES TAX ACT
R.S.N.S. 1989, C. 1989 as amended

Appellant

- and -

An appeal of the Canadian Salt
Company Limited of Assessment #61471
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96-05

Respondent

REASONS FOR
JUDGMENT BY:

FREEMAN,
J.A.