

## CASE NO.

## VOL. NO.

Municipal Contracting Limited, as agent for  
and on behalf of Municipal Enterprises Limited

Plaintiff

- and -

The Attorney General of Nova Scotia,  
representing Her Majesty The Queen  
in the Right of the Province of Nova Scotia

Defendant

Justice M. Heather Robertson

Halifax, NS

SH 108819

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**[Cite as: *Municipal Contracting Ltd. v. Nova Scotia (Attorney General)*  
2001NSSC192]**

**Heard:** October 30, 21, November 1, 2, 3, 6 7, 8, 9, 10, 2000 and March 12, 2001.

**Post-Trial  
Submissions:** April 17 and May 4, 8, and 16, 2001.

**Decision:** December 10, 2001

**Subject:** The correct statutory interpretation of the *Gasoline and Diesel Oil Tax Act* Regulations as it relates to a claim for refund of taxes paid in respect of diesel oil purchased, stored or used in the manufacture and production of non-renewable resources, quarried rock products.

*Issue estoppel* and judicial comity were also addressed in the light of an earlier decision which was reversed on appeal on jurisdictional grounds.

**Summary:** The plaintiff filed applications for refund of taxes paid between 1989-1996 "used to operate...machinery and apparatus which were used in the manufacture or production of goods for sale" i.e. crushed rock products which were by definition a non-renewable resource. The amount of refund claimed was \$896,466. The claims were denied by the Minister of Finance.

**Held:** The Minister correctly interpreted section 34 of the Regulations and subparagraph (12)(1)(k)iii and paragraph 14(d) in refusing the refund on tax paid. The product manufactured for sale was a non-renewable resource within the meaning and intent of the legislation.

<p><b>THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT FROM THIS COVER SHEET.</b></p>
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