

Docket: 2016-2563(IT)I

BETWEEN:

GABRIEL K. LANGBOUNG,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Appeal heard on March 29, 2017, at Edmonton, Alberta

Before: The Honourable Justice B. Russell

Appearances:

For the Appellant: The Appellant himself

Counsel for the Respondent: E. Ian Wiebe

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**AMENDED JUDGMENT**

The appeal from the reassessments raised January 21, 2008 for the Appellant's 2002, 2003 and 2004 taxation years and the reassessment raised February 29, 2008 for the Appellant's 2005 taxation year under the *Income Tax Act* (Canada) is dismissed, without costs in accordance with the attached reasons for judgment.

**This Amended Judgment is issued in substitution for the Judgment dated September 22, 2017.**

Signed at Ottawa, Canada, this 4<sup>th</sup> day of October 2017.

“B. Russell”

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Russell J.

Citation: 2017TCC186  
Date: **20171004**  
Docket: 2016-2563(IT)I

BETWEEN:

GABRIEL K. LANGBOUNG,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

**AMENDED REASONS FOR JUDGMENT**

Russell J.

[1] The following constitutes my reasons for judgment in the appeal of Mr. Langboug (Appellant) under the federal *Income Tax Act* (Act). The Appellant appeals the denial by the Minister of Revenue (Minister) of the Appellant's charitable donation claims for his 2002, 2003, 2004 and 2005 taxation years. The denied tax credits in respect of charitable donations allegedly made by the Appellant total \$5,050, \$8,500, \$5,044 and \$3,095 for these years respectively. The 2002 and 2003 taxation years were reassessed beyond the Appellant's applicable normal reassessment period and accordingly the onus is on the Respondent Crown for the reassessment at issue for each of those two years.

[2] The Appellant represented himself at the hearing of this informal procedure matter and he was his only witness. The Respondent called no evidence. Certain documents were entered by the Respondent into evidence with the consent of the Appellant.

[3] The Appellant testified that he had had receipts for the claimed charitable donations. The church he donated to had helped him when he first came to Canada. The church, "Redeemers' Victory", in Ontario, is no longer in existence. In cross-examination the Appellant further testified that his givings to this church were in the form of cash and from time to time also he would buy an item to donate such as a TV or microphone. He now has no cancelled cheques; the boxes they were kept in have been misplaced. He states he has lived in five locations within the last few years so has moved around and his documents have become lost in the course of

these moves. He testified he thought he had filed all documents prior to his February 2009 notice of objection. His notice of objection said he would submit documents, but there is no record of anything having been submitted.

[4] The Appellant testified he had retained an accountant who prepared his returns. He trusted the accountant and so did not review his returns. He was not aware that she subsequently was convicted for fraud. He stated he had had a photocopy of all submitted documentation but that is lost too. He had moved to Edmonton from Ontario in 2008. He agreed that his 2002 net income was \$26,102 and that he had claimed \$5,050 charitable donation tax credit for that year. He acknowledged for 2003 having total earnings of \$40,966 and claiming \$8,500 charitable donation tax credit. He likewise acknowledged 2004 net income of \$43,920 and claiming a \$5,044 charitable donation tax credit and in 2005 having net income of \$27,730 when he claimed charitable donation tax credit of \$3,095.

[5] In initial argument the Appellant had no submissions. The Respondent submitted that it had met the onus for opening the reassessments for the 2004 and 2005 statute-barred years. There were no cancelled cheques, in fact no supportive documentation whatsoever. There was a long objection period but no documentation ever provided to corroborate any of the claimed donations. Corroboration is required for cash gifts, gifts in kind, particularly in view of relatively high claimed amounts in comparison with his income. Unsubstantiated testimony is not enough.

[6] As well there was nothing at all from his church, which church now at least does not exist. There is no letter from anyone previously there and no confirmation it was ever a registered charity.

[7] Paragraph 118.2(2)(a) of the Act specifies that a charitable gift is not to be included in total charitable gifts unless the making of the gift is evidenced by filing with the Minister, “a receipt for the gift that contains prescribed information”. Clause 152(4)(a)(i) of the Act specified that a statute-barred taxation year may be opened if it is shown that the taxpayer, “has made any misrepresentation attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act”. And, clause 152(4.01)(a)(i) of the Act provides that a statute-barred year being opened can only be opened to the extent of the misrepresentation itself. The year cannot be opened as a whole.

[8] Finally, federal *Income Tax Regulations* subsection 3501(1) provides that a charitable cash gift receipt should include certain information therein listed,

including name and address of the charitable organization, the organization's registration number, the serial number of the receipt, the place or locality where the receipt was issued, if the gift was cash, the date or year the gift was received. The provision also provides for similar requirements for receipts for non-cash charitable gifts.

[9] Mr. Langboun in his concluding submissions proposed that it was too much to ask someone to keep such documents as these, dealing with receipts, for six or seven years. He has just lost track of them and has been searching for them for the last three days. Also, at the objection stage the Minister simply denied the claimed amounts. There was no letter from the Minister saying the Minister had the documents and they were not enough.

[10] In my view, in this appeal the Respondent's reassessments should be supported. There is a complete absence of evidence supporting the Appellant's uncorroborated oral testimony given under oath. To claim a charitable gift tax credit the law clearly requires supportive documentation in the form of receipts with prescribed information. Not only did the Appellant not have even one receipt, he had no other documentation whatsoever; not even something from the putative church in Ontario that was his supposed recipient of the alleged charitable gifts.

[11] Additionally, in my view the Respondent has successfully established the opening of the two statute-barred years - 2002 and 2003 - for which reassessments also have been appealed in this proceeding. A misrepresentation due to carelessness, negligence or wilful default for each such year has been established by, again, the complete and utter absence of any shred of documentation as required by law - or even third party testimony - that would even begin to substantiate the Appellant's statements in his tax returns claiming he had made in claiming charitable donation tax credits for each of those years.

[12] The appeal accordingly is dismissed, as to each of the appealed reassessments for the Appellant's 2002, 2003, 2004 and 2005 taxation years, respectively.

**This Amended Reasons for Judgment is issued in substitution for the Reasons for Judgment dated September 22, 2017.**

Signed at Ottawa, Canada, this    day of October 2017.

“B. Russell”

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Russell J.

CITATION: 2017TCC186

COURT FILE NO.: 2016-2563(IT)I

STYLE OF CAUSE: GABRIEL K. LANGBOUNG AND HER  
MAJESTY THE QUEEN

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: March 29, 2017

REASONS FOR JUDGMENT BY: The Honourable Justice B. Russell

DATE OF JUDGMENT: September 22, 2017

DATE OF AMENDED  
JUDGMENT: October 4, 2017

APPEARANCES:

For the Appellant: The Appellant himself  
Counsel for the Respondent: E. Ian Wiebe

COUNSEL OF RECORD:

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Firm:

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