

The motion is dismissed.

Signed at Vancouver, British Columbia, this 13th day of May 2005.

"L.M. Little"

Little J.

Docket: 2000-4538(IT)G

BETWEEN:

PAUL MANHAS,

Appellant,

And

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on January 17, 2005 at Nanaimo, British Columbia

Before: The Honourable Justice L.M. Little

Appearances:

For the Appellants: The Appellant himself

Counsel for the Respondent: Karen Truscott

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1993, 1994 and 1995, taxation years are allowed without costs in accordance with the attached Reasons for Judgment.

Signed at Vancouver, British Columbia, this 13th day of May 2005.

"L.M. Little"

Little J.

Citation: 2005TCC327
Date: 20050513
Docket: 2000-4538(IT)G

BETWEEN:

PAUL MANHAS

Appellant,

And

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Little J.

A. FACTS:

[1] The Appellant resides in Nanaimo, British Columbia.

[2] In the 1993, 1994 and 1995 taxation years the Appellant managed Via Contracting Ltd. ("Via") and Gurdev Holdings Ltd. ("Gurdev"). (Via and Gurdev are collectively referred to as the "Companies".)

[3] Via was in the demolition and excavation business. Via rented equipment and office space from Gurdev.

[4] The Appellant was the President and a Director of the Companies. The Appellant testified that his father Gurdev Manhas was the sole shareholder of the Companies.

[5] The Appellant reported income for the indicated taxation years as follows:

Income

1993	-	\$10,673.00
1994	-	\$28,144.00
1995	-	\$11,876.00

[6] Officials of the Canada Revenue Agency (the "CRA") determined that the amounts of income reported by the Appellant for the 1993, 1994 and 1995 taxation years were insufficient to pay for the Appellant's living expenses.

[7] Officials of the CRA carried out an audit and a Net Worth Calculation on the Appellant. Pursuant to the Net Worth Calculation the Minister of National Revenue (the "Minister") concluded that the Appellant had understated his income as follows:

	<u>Amount of Income Reported</u>	<u>Understated Income Initially Assessed</u>
1993	\$10,673.00	\$73,218.00
1994	\$28,144.00	\$56,950.00
1995	\$11,876.00	\$ 1,493.00

[8] As a consequence of the understatement of income as determined by the Minister penalties were imposed under subsection 163(2) of the *Income Tax Act* (the "Act") as follows:

	<u>Income</u>
1993	\$3,633.52
1994	\$4,232.21
1995	\$1,197.31

[9] The Appellant filed Notices of Objection to the Reassessments and officials of the Appeals Section of the CRA agreed to reduce the Appellant's unreported income as follows:

	<u>Revised Unreported Income</u>
1993	\$32,936.00
1994	\$36,293.00
1995	\$13,675.00

B. ISSUES:

[10] The issues are:

- (a) Whether the Appellant's income for the 1993, 1994 and 1995 taxation years was understated?
- (b) Whether the Minister was correct in imposing penalties?

C. ANALYSIS:

[11] Counsel for the Respondent maintained that the onus is on the Appellant to show that the Net Worth Calculations are incorrect and that the Appellant must discharge this onus.

[12] I have carefully reviewed the evidence provided by the Appellant and the evidence provided by counsel for the Respondent. Based on the evidence that was presented I have concluded that the following deductions should be made to the Appellant's income.

[13] The Appellant testified that in 1993 a Delorean Automobile was purchased for \$12,000.00. The Appellant maintains that the Delorean Automobile was purchased by his father, Gurdev, using money owed to him by Via. The Appellant said that the Delorean Automobile has been stored in a garage since the date it was purchased. Based on a careful analysis of the evidence I have concluded that this transaction has nothing to do with the Appellant and therefore the amount of \$12,000.00 should be deleted from the Net Worth Calculations of the Appellant.

[14] The Reassessments indicate that the Appellant's personal expenditures were determined by the Minister to be \$400.00 per month or \$4,800.00 per year.

[15] The Appellant maintains that these numbers are too high and the numbers for personal expenditures should be \$300.00 per month or \$3,600.00 per year. I accept the Appellant's position and the amount of \$1,200.00 per year should be deducted from the Net Worth Calculations for the 1993, 1994 and 1995 taxation years.

[16] The Appellant testified that in the 1993, 1994 and 1995 taxation years he had a bank account at a branch of the Canadian Imperial Bank of Commerce located in the Harbour Park complex. The Appellant said that this bank account

was later changed to a branch of the Canadian Imperial Bank of Commerce located in the Country Club Mall. Counsel for the Respondent said that officials of the CRA had requested copies of the bank records but nothing was ever provided by the Appellant.

[17] As noted above, the Appellant had the onus of proving that the Minister's Net Worth Calculations were incorrect. The Appellant maintains that the Minister's Net Worth Calculations were incorrect. However, the Appellant did not produce any acceptable evidence to establish that the Minister's calculations were incorrect. Because of the failure by the Appellant to establish that the Net Worth Calculations were incorrect I accept the majority of the Minister's Net Worth Calculations.

[18] The appeals will be allowed to delete the amount of \$12,000.00 re the cost of the Delorean Automobile purchased in 1993 from the Net Worth Calculations and to reduce the personal expenditures from \$4,800.00 per year to \$3,600.00 per year. No other adjustments should be made to the Reassessments. I have concluded that costs should not be awarded on the appeal. However, the Appellant is in breach of the Court Order dated September 17, 2004 since he failed to pay costs of \$405.39 awarded to the Respondent. The amount of \$405.39 should be paid by the Appellant to the Respondent forthwith.

[19] I have also concluded that the penalties should be applied but adjustments should be made to recognize the amounts that were deleted from income.

Signed at Vancouver, British Columbia, this 13th day of May 2005.

"L.M. Little"

Little J.

CITATION: 2005TCC327

COURT FILE NO.: 2000-4538(IT)G

STYLE OF CAUSE: Paul Manhas and
Her Majesty the Queen

PLACE OF HEARING: Nanaimo, British Columbia

DATE OF HEARING: January 17, 2005

REASONS FOR JUDGMENT BY: The Honourable Justice L.M. Little

DATE OF JUDGMENT: May 13, 2005,

APPEARANCES:

For the Appellant: The Appellant himself

Counsel for the Respondent: Karen Truscott

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Canada