

Citation: 2005TCC355
Date: 20050526
Docket: 2004-4097(IT)I

BETWEEN:

SYED MANSOOR ALI NAQVI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

(delivered orally from the Bench at
Toronto, Ontario, on April 12, 2005)

[1] This appeal pursuant to the Informal Procedure was heard at Toronto, Ontario on April 11, 2005. The Appellant testified. The Respondent called Noory Ali, the owner and operator of North American Foreign Exchange and Navjit Bolina, the Appeals Officer on the file.

[2] At the outset, the Respondent acknowledged the Appellant may deduct from the income assessed, the sum of \$6,425 paid by the Appellant on account of a business loan in the taxation year and this matter is referred to the Minister of National Revenue for reconsideration and reassessment accordingly.

[3] With respect to the remaining sum of a further \$21,289 assessed as income for 2000 which remains in dispute, the particulars are set out in paragraphs 7 to 13 of the Reply to the Notice of Appeal. They read:

7. In computing income for the 2000 taxation year, the Appellant reported employment income in the amount of \$15,000 to reflect the T-4 slip from Mansoor Brothers Enterprises in the amount of \$8,000 and the T-4 slip from 1226507 Ontario Inc. in the amount of \$7,000.

8. The Appellant was initially assessed for the 2000 taxation year as filed. The Notice of Assessment is dated July 23, 2001.

9. The Appellant was reassessed for the 2000 taxation year. In the Notice of Reassessment dated September 22, 2003, the Minister of National Revenue (the "Minister") increased the Appellant's employment income by the amount of \$27,714 with applicable interest and late filing penalties.

10. The Appellant objected to the reassessment dated September 22, 2003 by Notice of Objection, dated September 20, 2003 and received on October 31, 2003.

11. The Minister confirmed the reassessment. The Notification of Confirmation is dated September 7, 2004.

12. In reassessing tax for the 2000 taxation year, the Minister assumed the following of facts:

- a) the Appellant's return of income for the 2000 taxation year (the "Return") was required to be filed with the Minister on or before April 30, 2001;
- b) the Appellant failed to file the Return as and when required by the *Act*;
- c) the Appellant's return was filed on June 18, 2001;
- d) at all material times, the Appellant held 100% ownership of two franchises known as Mansoor Brothers Enterprises and 1226507 Ontario Inc. purpose of such franchises were selling coffee, donuts, muffins, etc.;
- e) for the 2000 taxation year, the Appellant was supporting three people, the Appellant, his spouse and one child (one years of age);
- f) in reporting income for the taxation year at issue the Appellant did not include all of the income received in the said taxation year;
- g) during the 2000 taxation year, the Appellant understated his income by the amount of \$27,714, inclusive of:

- (i) \$19,468, determined through the source and application of funds, as outlined in paragraph 3 above;
- (ii) \$845, funds or property conferred on the Appellant in his capacity as a shareholder of Mansoor Bros Inc.;
- (iii) \$7,401, funds or property conferred on the Appellant in his capacity as a shareholder of 1226507 Ontario Inc.

B. ISSUES TO BE DECIDED

13. The issue is whether the Minister has properly included the additional income in the amount of \$27,714 in Appellant's income in the 2000 taxation year.

[4] Based upon credibility, the Appellant failed to refute the assumptions remaining in question insofar as the \$21,289 is concerned.

[5] Noory Ali did not supply any concurrent documents, whether money transfer documents, or business account ledgers or similar documents which confirmed his oral testimony. Such documents are normal business records when dealing with sums of money. The documents Mr. Ali supplied were completed by him long after the alleged events and after urging by the Appellant.

[6] Mr. Naqvi gave general conflicting accounts of his receipts of funds over the periods of his dealings with CRA. They include:

1. Having Ms. Forrest, his accounting representative tell CRA that the Appellant received \$21,700 in Canada from visiting relatives while they were in Canada.
2. Mr. Naqvi telling the Appeals Officer that he received different identified sums.
3. Finally identifying a third set of sums in his Royal Bank statements which Mr. Naqvi had Mr. Ali confirm in the manner described.

[7] The result is that Mr. Naqvi presented three versions, which fail to correspond to each other, each of which lack the confirming bank transfer or

business record documentation which are to be expected in ordinary monetary transactions.

[8] For this reason the portion of the appeal relating to the \$21,289 remaining in dispute is denied.

Signed at Ottawa, Canada, this 26th day of May 2005.

"D.W. Beaubier"

Beaubier, J.

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STYLE OF CAUSE: Syed Mansoor Ali Naqvi v.
The Queen

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: April 11, 2005

ORAL REASONS FOR
JUDGMENT BY: The Honourable Justice Beaubier

DATE OF ORAL REASONS: May 26, 2005

APPEARANCES:

For the Appellant: The Appellant himself

Counsel for the Respondent: Jeremy Streeter

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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