

Citation: 2008TCC203
Date: 20080410
Docket: 2006-59(IT)G

BETWEEN:

PRAKASH CHANDRA JATTAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

**(Delivered orally from the Bench at
Vancouver, British Columbia on January 14, 2008)**

Beaubier, D.J.

[1] This hearing of a Motion by Respondent's counsel to dismiss this appeal by the Appellant was heard by telephone conference on January 14, 2008. In the alternative, the Respondent has asked that the Court order the Appellant to provide "full and proper answers to the undertakings given by the Appellant at his examination for discovery." The Affidavit of Jennifer McDougall dated January 4, 2008 was filed in support of the Motion. It exhibited a transcript of the examination for discovery, a list of undertakings and the answers to the undertakings.

[2] Examples of some of the answers to undertakings in Exhibit "F" were:

273. Village Rentals only – check with Connie.

277. Connie has made arrangements to provide the information directly with Lisa Macdonell.

279. Answer (277).

622. Check with Connie (277).

The response was rife with similar answers such as:

724. Mrs. Maraquel to provide information directly to Lisa Macdonell.

840. Revenue Canada has the information.

851. See the record with Revenue Canada.

[3] The Appellant and his counsel admit that “the responses were a bit thin.” (Appellant’s Affidavit of January 10, 2008.) The Appellant then stated that if further elaboration was required, his counsel would be happy to request it from the Appellant.

[4] An examination for discovery is conducted to provide answers which are binding on the examinee party; in this case, the Appellant. They shorten the proceedings and reduce the expense of trial. The sample answers described are nonsense in these circumstances and amount to no answer at all.

[5] In these circumstances, the Appellant holds out that if requested, more would be provided. It is not for Respondent’s counsel to ask for more. Rather, it is for the Appellant to provide a full and binding answer in the examination for discovery or in the response to the undertakings. Respondent’s counsel suggested that the Appellant may not have understood. In the Court’s view, the Appellant’s counsel would have understood and had a responsibility.

[6] Rule 96(1) of the *Tax Court of Canada Rules (General Procedure)* states that where a person has failed to furnish the information, the party may not introduce that information at the hearing. Therefore, it merely lies for the hearing judge to exercise that rule where answers such as those samples quoted are given by the Appellant. The parties hereto and their counsel can be sure that that kind of a rule will be conducted thoroughly in the course of the hearing of this matter.

[7] Therefore this appeal is ordered to be heard at the Tax Court of Canada 701 West Georgia Street, 8th Floor, Vancouver, British Columbia, commencing at 9:30 a.m. on May 12, 2008 for an estimated duration of five days.

Signed at Saskatoon, Saskatchewan this 10th day of April, 2008.

“D.W. Beaubier”

Beaubier, D.J.

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COURT FILE NO.: 2006-59(IT)G

STYLE OF CAUSE: Prakash Chandra Jattan v. The Queen

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: January 14, 2008

ORAL REASONS
FOR ORDER BY: The Honourable Justice D.W. Beaubier,
Deputy Judge

DATE OF ORAL
REASONS FOR ORDER: April 10, 2008

PARTICIPANTS:

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