

Citation: 2013TCC167  
Date: 20130527  
Docket: 2012-624(IT)I

BETWEEN:

AMEIR AMEIR,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

**REASONS FOR JUDGMENT**

(Delivered orally from the bench on April 26, 2013, in Edmonton, Alberta.)

V.A. Miller J.

[1] This appeal relates to the 2006 and 2007 taxation years for Mr. Ameir. The issue is whether the Minister of National Revenue (the “Minister”) properly determined the Appellant’s net business income for these years.

[2] When he filed his income tax returns for 2006 and 2007, the Appellant reported the following net business income:

	2006	2007
Gross Income	\$0	\$3,883.00
Expenses	4,413.82	0.00
Net business Income	(\$4,413.82)	\$3,883.00

[3] The Minister of National Revenue (the “Minister”) reassessed the Appellant’s income tax liability as follows:

	2006	2007
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<b>Gross Income</b>	\$28,948.61	\$49,893.07
<b>Expenses:</b>		
Motor Vehicle	3,397.06	
Fuel		14,338.96
Insurance		3,432.57
Lease Costs		6,792.48
Licence		1,438.88
Repairs		10,521.93
<b>Total Expenses</b>	3,397.06	36,524.82
<b>Net Business Income</b>	\$25,551.55	\$13,368.25

[4] In 2006 and 2007, the Appellant operated a trucking business as a sole proprietorship under the same Sameir Trucking Service. In July and August 2006, he provided services to Red Label Trucking Ltd.; and, in September to December 2006 (inclusive), he provided services to Rainbow Transport Ltd. He provided trucking services to Trimac Transportation Services Ltd. (“Trimac”) from February to June 2007.

[5] It was the Appellant’s evidence that he kept all of his business records in his truck. He had an accident with his truck in December 2006, and lost all of his business records. He testified that his accountant told him to file his returns with the amounts he reported. He was advised that he could correct the amounts when he was audited.

[6] The Minister obtained documents from third parties in order to reassess the Appellant’s 2006 and 2007 taxation years.

[7] At the hearing of this appeal, the Appellant was not able to verify many of the assumptions made by the Minister. For the most part, he answered that he was “not sure”. He was “not sure” of the amount of income he reported in 2006 and 2007; the amount of income he earned in 2006 and 2007; the date he started to work with Rainbow Transport Ltd.; the dates he worked for Trimac; the expenses he incurred in 2006 and 2007; whether he operated his business after June 2007. He stated that he cooperated with the CRA and all mistakes made were those of his accountant. He could not remember his accountant’s name but he did state that he read his income tax returns before he signed them.

[8] The Appellant submitted some receipts which had not been given to the auditor. The Respondent conceded that the Appellant was entitled to deduct additional expenses in 2006. They are: the amount of \$9,693 paid to Aqua Insurance Brokers; the amounts of \$171.66 and \$360.88 paid to Calmont for repairs made to his vehicle. The total amount of additional expenses allowed is \$10,255.54 in 2006.

[9] The Appellant stated that in 2007 he flew from Edmonton to Grand Prairie to pick up his truck after it was repaired. It was his position that he should be allowed to deduct the cost of this flight. He gave no documents to support his evidence and no amount with respect to the cost of the flight.

[10] It was also the Appellant's position that he should be allowed further deductions for the lease of his truck. He leased it throughout 2007 and he had that cost even when he was not working.

[11] In the reassessment of the 2006 and 2007 years, the Minister allowed the Appellant a deduction for the lease of a Volvo 660 for October 2006 to June 2007, inclusive. The Minister also allowed a deduction for the GST incurred on these monthly payments for the Volvo. The documents submitted by the Appellant do not support his assertion that he leased the Volvo. It appears to me that he did not lease the Volvo; he purchased it and it was a capital asset. If I am incorrect on this issue and the Appellant did lease the Volvo, the lease payments after June 2007 cannot be deducted. It was the Appellant's evidence that he did not know whether he operated his business after June 2007. If the Appellant did not operate his business after June 2007, any expense incurred for his Volvo would be a personal expense and it is not deductible. In conclusion on this issue, the Appellant has not given any evidence which supports his request for additional lease expenses.

[12] The Appellant requested additional expenses in 2006 for fuel. I agree that he did incur fuel expense in 2006. However, he did not give an amount for fuel expenses. He gave no evidence about the business mileage or business trips that he made in 2006. He gave no documents with respect to his fuel expense in 2006. I cannot just guess or take a number out of the air for the Appellant's expenses. This was his business and the onus is on the Appellant to attempt to get some documents to support his position. The Appellant supplied no documents at the audit stage of this file; the CRA had to go to third parties to get all of the documents.

[13] I find it implausible that the Appellant lost all of his documents for both 2006 and 2007. He blamed his accountant for the errors in his income tax returns but he could not even remember his accountant's name.

[14] It is my view that, aside from the amounts conceded by the Respondent, the Appellant had not shown that the reassessment was incorrect.

[15] The Appellant relied on subsection 6(7) of the *Income Tax Act* for the proposition that he paid GST on his payments for the Volvo and the GST should have been allowed as an expense. First, the Appellant was allowed GST as an expense for his monthly lease payment. Second, subsection 6(7) is of no assistance to the Appellant. It relates to benefits that must be included in an employee's income.

[16] Our system of taxation is both self-reporting and self-assessing. It relies on the honesty and integrity of its taxpayers. It is the Appellant's duty to report his income and expenses correctly and blaming his accountant does not relieve him of his responsibility.

[17] If a taxpayer intends to operate a business, it is that taxpayer's obligation to keep proper books and records so that his income and expenses can be verified. As a public policy matter the burden of proof of deductions and claims properly rest with the taxpayer: *Njenga v R.*, [1997] 2 C.T.C. 8 (FCA).

[18] In conclusion, the appeal is allowed for the 2006 year. The total amount of additional expenses allowed in 2006 is \$10,225.54. The appeal is dismissed for the 2007 year.

Signed at Ottawa, Canada, this 27<sup>th</sup> day of May 2013.

“V.A. Miller”

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V.A. Miller J.

CITATION: 2013TCC167

COURT FILE NO.: 2012-624(IT)I

STYLE OF CAUSE: AMEIR AMEIR AND  
THE QUEEN

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: April 26, 2013

REASONS FOR JUDGMENT BY: The Honourable Justice Valerie Miller

DATE OF JUDGMENT: May 27, 2013

APPEARANCES:

For the Appellant:	The Appellant himself
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COUNSEL OF RECORD:

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Firm:

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