

Docket: 2021-1160(GST)APP

BETWEEN:

2544375 ONTARIO INC.,

Applicant,

and

HIS MAJESTY THE KING,

Respondent.

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Application heard on November 9, 2023, at Toronto, Ontario

Before: The Honourable Justice Robert J. Hogan

Appearances:

Agent for the Applicant: Ardell Luo

Counsel for the Respondent: Jacky Chiu  
Darren Prevost

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**JUDGMENT**

The application for an extension of time to file an objection under the *Excise Tax Act* is dismissed, in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 6th day of December 2023.

“Robert J. Hogan”

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Hogan J.

Citation: 2023 TCC 163  
Date: 20231206  
Docket: 2021-1160(GST)APP

BETWEEN:

2544375 ONTARIO INC.,

Applicant,

and

HIS MAJESTY THE KING,

Respondent.

### **REASONS FOR JUDGMENT**

Hogan J.

[1] The Applicant, 2544375 Ontario Inc. (the “Applicant”) has brought an application for an extension of time to serve a notice of objection (the “objection”) on the Minister of National Revenue (the “Minister”) in respect of a Notice of Reassessment (the “Reassessment”) issued by the Minister on July 12, 2019 for GST/HST for the reporting period from October 1, 2017 to September 30, 2018 (the “Relevant Period”). The Applicant was assessed GST/HST in the amount of \$46,108.05. The Applicant’s claim for input tax credits (“ITCs”) was reduced from \$14,872.30 to zero.

[2] The Respondent opposes the application on the grounds that:

- i. The Applicant failed to file a notice of objection within the ninety day period for doing so;
- ii. The maximum deadline to apply for an extension of time to serve a notice of objection with the Minister in respect of the Reassessment was December 31, 2020;
- iii. The Applicant failed to file a request for an extension of time on or before the aforementioned date as required under paragraph 303(7)(a) of the *Excise Tax Act* (R.S.C., 1985, c. E-15) (the “Act”); and,

iv. The Applicant's application to this Court was also filed late.

[3] As is common in these matters, the Respondent filed affidavits sworn by litigation officers of the Canada Revenue Agency ("CRA") regarding information obtained from a review of the CRA records that is germane to the matter at hand.

[4] The litigation officers in their affidavits state that, after a review of the taxpayer's records, they were unable to find any evidence that the Applicant had filed an application for an extension of time on or before December 31, 2020.

[5] The Applicant acknowledges that it filed its application for an extension of time with the Canada Revenue Agency ("CRA") after December 31, 2020 which was the last date for doing so.

[6] The Respondent points out that the Application must be dismissed because it was also filed late with this Court. Section 304 of the *Act* provides that an application for an extension of time to file a notice of objection cannot be made after the expiration of thirty days following the day the Minister rejected the application. The evidence shows that the Minister rejected the Applicant's request for an extension of time on February 16, 2021. The deadline to apply for an extension of time with this Court was March 18, 2021. The evidence shows that the application was filed with the Court on May 13, 2021.

[7] The Applicant's agent, Ardell Luo (the "Agent"), testified on behalf of the Applicant. The substance of the Agent's testimony was that the Applicant failed to file a notice of objection within the 90 day period due to errors committed by the former director and accountant of the Applicant. The Agent acknowledged that when she took over the matter as the new accountant of the Applicant, she was aware of the fact that the 90 day time period for filing a notice of objection had expired. The evidence shows that the Agent filed a letter with the CRA on February 11, 2020 which included a description of the Applicant's business activities and a list of the invoices required to justify the Applicant's claim for ITCs and a GST/HST refund. At that time, the maximum delay for filing a request for an extension of time with the Minister had not expired.

[8] The Agent testified that she tried on numerous occasions to obtain information from the CRA on how to proceed on behalf of her client. According to the Agent, she was unable to obtain the requested information because of a lack of CRA personnel due to the Covid health restrictions. This is not a valid excuse. The Agent is a licensed accountant willing to take on tax controversy mandates. A professional

in this situation cannot rely on the CRA to provide the information on how to proceed when a deadline is missed. There are numerous internet-based tax research services that provide extensive information in this regard. The Agent had ample time to consult these sources and file an application for an extension of time prior to the expiration of the maximum delay for doing so.

[9] It is well established that the aforementioned delays are mandatory. I do not have discretion to grant an application which is made beyond the mandatory time for doing so.

[10] For all of these reasons, the application is dismissed.

Signed at Ottawa, Canada, this 6th day of December 2023.

“Robert J. Hogan”

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Hogan J.

CITATION: 2023 TCC 163  
COURT FILE NO.: 2021-1160(GST)APP  
STYLE OF CAUSE: 2544375 Ontario Inc. v. His Majesty the King  
PLACE OF HEARING: Toronto, Ontario  
DATE OF HEARING: November 9, 2023  
REASONS FOR JUDGMENT BY: The Honourable Justice Robert J. Hogan  
DATE OF JUDGMENT: December 6, 2023

APPEARANCES:

Agent for the Applicant: Ardell Luo  
Counsel for the Respondent: Jacky Chiu  
Darren Prevost

COUNSEL OF RECORD:

For the Applicant:

Name:

Firm:

For the Respondent: Shalene Curtis-Micallef  
Deputy Attorney General of Canada  
Ottawa, Canada