

Docket: 2013-3652(IT)I

BETWEEN:

STEPHEN OFORI-DARKO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard in common evidence with the appeal of
Doris Ofori-Darko 2013-3809(IT)I on January 29, 2014,
at Toronto, Ontario

Before: The Honourable Justice B. Paris

Appearances:

For the Appellant: The Appellant himself
Counsel for the Respondent: Marcel Prevost

JUDGMENT

The appeals from the reassessments made pursuant to the *Income Tax Act* for the 2006, 2007 and 2008 taxation years are dismissed in accordance with the attached reasons for judgment.

Signed at Ottawa, Canada, this 17th day of February 2014.

“B.Paris”

Paris J.

BETWEEN:

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Appellant,

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Citation: 2014 TCC 54
Date: 20140217
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2013-3809(IT)I

BETWEEN:

STEPHEN OFORI-DARKO
DORIS OFORI-DARKO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Paris J.

[1] The appellants are appealing the disallowance of the tax credits for charitable donations they claimed in their 2006, 2007 and 2008 taxation years. Mr. Ofori-Darko claimed donations to the Redemption Faith Ministries/Church (“Redemption”) of \$3645, \$4516, and \$4102 for those years respectively. Ms. Ofori-Darko claimed donations of \$10,815, \$10,195 and \$10,648 to the same organization for those years respectively. The appeals were heard on common evidence.

[2] The Minister of National Revenue (the “Minister”) disallowed the credits on the basis that neither appellant made any donations to Redemption in any of those years and also because the charitable donation receipts issued to them by Redemption did not contain the information required by Regulation 3501¹ (*ITR*) necessary to prove the gift. A receipt setting out the prescribed information is necessary in order to

¹ *Income Tax Regulations*, C.R.C., c. 945.

claim a tax credit for a charitable donation, according to paragraph 118.1(2)(a) of the *Income Tax Act*. (ITA)

[3] Redemption was in the years in issue a registered charity. It operated a house of worship in Etobicoke and according to the appellant was engaged in charitable activities in Canada as well as Ghana. Mr. Ofori-Darko was the founder and pastor of Redemption, and was also a director. Ms. Ofori-Darko was an assistant pastor and a director.

[4] The charitable registration of Redemption was revoked in 2010 because the Minister could not confirm the charitable activities of Redemption. The Canada Revenue Agency (“CRA”) officer who oversaw the audit testified there were serious concerns relating to overstated charitable donation receipts issued by Redemption. In 2005, Redemption issued receipts for donations totalling over \$121,000. Only \$4234 was deposited in Redemption’s bank account that year. In 2006, Redemption issued receipts for over \$677,000 of donations. Only \$7876 was deposited into its bank account that year. The appellants did not challenge the evidence of the CRA officer on this point.

[5] As a result of the audit findings, the CRA reviewed tax credits claimed by individuals in respect of donations to Redemption.

[6] The appellants claim that they donated cash to Redemption during their attendance at Redemption’s weekly church service. They say they put their donations into envelopes marked with their name and put the envelopes in the collection basket. Mr. Ofori-Darko said that a member of the church, Ms. Prudence Crankson, in the presence of another member, opened the envelopes and recorded the cash donations in one of two books. The first was for tithes, which represented a portion of the donor’s earnings, and the second was for contributions other than tithes. (Apparently the nature of the donation would be marked on the envelope by the donor.)

[7] Mr. Ofori-Darko said after the amount was recorded in Redemption’s books, he would take it and deposit it into Redemption’s bank account. He produced a copy of the entries in the tithe record book for 2006, 2007 and 2008. According to those entries, he gave tithes of \$2047 in 2006, \$2738 in 2007 and \$2346 in 2008, and Ms. Ofori-Darko gave tithes of \$3550 in 2006, \$4740 in 2007 and \$5240 in 2008. Mr. Ofori-Darko said the remainder of his donations consisted of gifts in kind to Redemption, in the form of new and used clothing and shoes which Redemption shipped to Ghana and distributed to needy individuals. Ms. Ofori-Darko also said she made donations of the same nature, and gave food for church activities and paid

parking fees while making hospital visits. She also said she made additional cash contributions beyond the tithes shown in the tithe record book. No records of any of the gifts in kind, expenses or other cash donations were produced.

[8] On the first issue, I find that the appellants have not proved on a balance of probabilities that they made the donations claimed. There was no proof offered to corroborate their testimony that they made gifts in kind to Redemption and their testimony alone was too vague to identify any specific goods that were donated or the value which could be attributed to such goods. Similarly, the existence of cash gifts given by Ms. Ofori-Darko in excess of those shown in the tithes record were not corroborated.

[9] I am also unable to accept that the amounts shown in the tithes records are reliable. The person who allegedly made the entries in the tithes record was not called as a witness, and there was no evidence that she was unavailable. I conclude that she was not called because her evidence would not have assisted the appellants. More importantly however, the appellants did not provide bank records for Redemption to show that deposits at least equal to the tithes allegedly collected were made into Redemption's bank account.

[10] According to Mr. Ofori-Darko, he deposited all of the cash collected into that account. The evidence that was presented does not, in fact, support his testimony in this regard. For the 2006 year, the tithe record shows total donations of \$12406 whereas the CRA officer stated that only \$7876 was deposited into Redemption's bank account that year. The appellants' failure to produce the bank records for Redemption for the years in issue leads me to again draw an inference that those records would not have supported their position. The appellants as directors of Redemption, ought to have been in a position to produce such records.

[11] Having found that the appellants have not shown that the donations they claimed were in fact made, it is not strictly necessary for me to decide the second issue concerning the donation receipts issued to the appellants by Redemption. However, it would be helpful to consider the submissions made on the point.

[12] I would note for the record, that Ms. Ofori-Darko produced only one receipt, for 2006, but I am prepared to accept the evidence of Mr. Ofori-Darko, who prepared the receipts, that the others issued to Ms. Ofori-Darko would have been in the same form as his own receipts for 2007 and 2008.

[13] I agree with the respondent's counsel that those receipts do not contain all of the information required by subsection 3501(1) of the *ITR*. In particular, they do not provide a breakdown of the donation between cash and gift in kind nor do they give a description of gifts in kind that were allegedly donated.

[14] Furthermore the receipts do not show when the gifts in kind were received by Redemption or what their fair market value was at that time. Finally the receipts fail to show the locality or place of issuance of the receipt. As I indicated in the case of *Afovia et al. v. The Queen*,² the information listed in subsection 3501(1) of the *ITR*, the information listed in subsection 3501(1) of the *ITR* is mandatory for charitable donation receipts, and therefore the receipts in these appeals are insufficient to prove the making of a gift as provided for in paragraph 118.1(2)(a) of the *ITA*.

[15] For all of these reasons, the appeals are dismissed.

Signed at Ottawa, Canada, this 17th day of February 2014.

“B.Paris”

Paris J.

² 2012 TCC 391, [2012] T.C.J. No. 314 at paragraph 12.

CITATION: 2014 TCC 54

COURT FILE NO.: 2013-3652(IT)I

STYLE OF CAUSE: STEPHEN OFORI-DARKO AND HER
MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 29, 2014

REASONS FOR JUDGMENT BY: The Honourable Justice B. Paris

DATE OF JUDGMENT: February 17, 2014

APPEARANCES:

For the Appellants:	The Appellant themselves
Counsel for the Respondent:	Marcel Prevost

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: William F. Pentney
Deputy Attorney General of Canada
Ottawa, Canada