

Citation: 2014 TCC 91
Date: 20140324
Docket: 2013-3386(IT)I

BETWEEN:

IAN E. BROWN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

(Edited from the transcript of Reasons for Order delivered orally from the Bench on January 21, 2014 at Toronto, Ontario)

Campbell J.

[1] Let the record show that I am delivering oral reasons in the matter of the motion concerning Ian Brown's appeal.

[2] The Respondent has brought a motion in this matter for an Order striking the Notice of Appeal filed on September 10, 2013. The Respondent makes this motion on the basis that the Notice of Appeal contains no material facts and issues which the Respondent can admit or deny or otherwise respond to. The Respondent is relying on Rule 4 and Schedule 4 of the *Tax Court of Canada Rules (Informal Procedure)*. Rule 4 states that a Notice of Appeal shall set out the reasons for the appeal and also include the relevant facts pertinent to that appeal.

[3] On January 15, 2014, the Appellant filed another document entitled "Amended Notice of Appeal". This document is very similar in form and substance to the original Notice of Appeal filed in this matter, and it also contains wording similar to documentation filed by other Appellants within this group which I have been assigned to case manage. This January 15, 2014 Amended Notice of Appeal puts in issue purported business losses by its very reference to "vacating the Minister's reassessment."

[4] Yesterday, January 20, 2014, the Appellant filed another document entitled, “Fresh Notice of Appeal”. Again, the language within this document puts the entire reassessment at issue and not just gross negligence penalties. I have permitted other such appeals in this group to go forward on the basis of penalties only, even though there are now a number of decisions released which have dismissed the penalty issue.

[5] This morning I was provided with Mr. Brown’s affidavit, also filed on January 20, 2014, which clearly states that he believes he has a business and, by implication, business losses. He references also a decision of Justice Boyle of this Court rendered in *Ian E. Brown v The Queen*, file number 2012-3456(IT)G, which Mr. Brown indicates he is in the process of appealing.

[6] Respondent Counsel provided a transcript of the oral reasons of Justice Boyle in which Mr. Brown’s appeal was struck. Throughout that transcript, there were attempts at getting Mr. Brown to provide information on the type of business he operated. The ensuing exchange went in circles. Mr. Brown’s only comment concerning the transcript contents was that he, and I quote, “misspoke” when he responded to Justice Boyle’s questions concerning a business. He advised me that it was simply Justice Boyle’s opinion, that Mr. Brown had his own opinion and that opinions were equal before the law. Mr. Brown believes the section 248 portion of the *Income Tax Act* definition of “business”, that is, “undertaking of any kind” leaves it pretty much wide open for interpretation. It was also clear to me that Mr. Brown was not going to be cooperative in providing any more particulars to me concerning his operation of a business than he had been with Justice Boyle. Where Mr. Brown is an employee and yet is alleging that he has a business and that he has suffered business losses, it is incumbent upon him to include those facts in his pleadings. He refused to do so and was evasive in responding to my questions concerning an alleged business, which leaves him with pleadings that are deficient in material facts so that the Respondent cannot know how to properly respond. This is a fundamental rule of pleadings.

[7] I have purposively issued my oral reasons in several prior motions respecting this group of appeals. I meet this argument of fictional, artificial entities, that are somehow exempt from tax, head-on when I refer to such arguments as unintelligible and incomprehensible at best and at worst as complete nonsense and a waste of this Court’s resources and time. It is a very clear case of abuse of process. The Appellant’s attempt at persuading me that I should not hear this motion because it would be an “abridgment of his *Charter* rights” has no basis. Nor does the fact that he filed a “Fresh Notice of Appeal” yesterday, render the motion moot.

[8] For these reasons, the Respondent's motion is granted and the Notice of Appeal dated September 10, 2013, the Amended Notice of Appeal dated January 15, 2014 and the Fresh Notice of Appeal dated January 20, 2014 are struck, with costs of \$1,000 payable forthwith to the Respondent.

[9] I have been case managing this group of appeals since 2012. I have enough reasons out there and there have now been decisions by other Judges on similar motions and in addition, a number of cases have proceeded through hearings and decisions have been rendered. In future, I am going to send clearer messages by way of costs to individuals coming before me who are foolish enough to run with these absolutely ridiculous and futile arguments.

Signed at Ottawa, Canada this 24th day of March 2014.

“Diane Campbell”

Campbell J.

CITATION: 2014 TCC 91

COURT FILE NO.: 2013-3386(IT)I

STYLE OF CAUSE: IAN E. BROWN and
HER MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 21, 2014

REASONS FOR ORDER BY: The Honourable Justice Diane Campbell

DATE OF ORAL REASONS: January 21, 2014

APPEARANCES:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Rishma Bhimji

COUNSEL OF RECORD:

For the Appellant:

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Firm:

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