

Docket: 2012-2849(IT)I

BETWEEN:

AKINOLA AKINBO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on June 17, 2014, at Toronto, Ontario.

Before: The Honourable Justice B. Paris

Appearances:

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

JUDGMENT

The appeal from the reassessment made under the *Income Tax Act* for the 2006 taxation year is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 7th day of July 2014.

“B.Paris”

Paris J.

Citation: 2014 TCC 214

Date: 20140707

Docket: 2012-2849(IT)I

BETWEEN:

AKINOLA AKINBO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Paris J.

[1] The appellant, Mr. Akinbo, is appealing the disallowance of a charitable donation tax credit he claimed under section 118.1 of the *Income Tax Act (ITA)* in his 2006 taxation year.

[2] The issues in the appeal are whether Mr. Akinbo donated \$3824.10 to Israelite Church of Christ Canada (“ICCC”) in 2006, and if so whether the charitable donation receipt he received from ICCC contained the information prescribed by section 3501 of the *Income Tax Regulations*.¹

[3] In this appeal, Mr. Akinbo has the onus to show, on a balance of probabilities, that he in fact made the donation he claims to have made to ICCC. For the following reasons, I find that he has failed to meet that onus.

[4] Mr. Akinbo testified that he attended a church service at ICCC’s premises on a single occasion and that he was so moved by the preacher’s sermon on that occasion that he gave \$3824.10 in cash to ICCC. He said that he took \$3800 in cash that he had in the glove compartment of his car, and \$24.10 that he had in his pockets, placed it all in a donation envelope and placed the envelope in the collection basket during the service. Mr. Akinbo produced a bank statement for the period from September 1, 2006 to October 2, 2006 showing that he withdrew

¹ C.R.C., c. 945.

\$7830.20 in cash on October 2, 2006. He stated that the \$3800 he had in the glove compartment of his car was part of the cash he withdrew on October 2, 2006. When asked why he withdrew the cash, he said that part of it was to send to his family and the \$3800 he kept was to purchase electronics.

[5] I find Mr. Akinbo's evidence very difficult to believe. It seems extremely unlikely that he would decide to make such a large donation on the spur of the moment to a church he had never attended before and to which he never returned and extremely unlikely that he would keep \$3800 in cash in the glove compartment of his car. Although he said that he attended the ICCC service with a friend, he did not call the friend as a witness to give evidence at the hearing in this matter to confirm his donation.

[6] The bank statement that was produced appears to indicate that just prior to the withdrawal made on October 2, loan proceeds of \$10,000 were transferred into the account. Therefore the withdrawal made by Mr. Akinbo on October 2 was made out of borrowed funds. This makes it even more unlikely that he would have used part of the withdrawal to make a large spontaneous donation. It also is implausible that he would have intended to use \$3800 of the borrowed money to buy electronics. I note that the balance remaining in his account after the withdrawal on October 2, 2006 was \$9.33.

[7] Mr. Akinbo's evidence that he made a single donation to ICCC was also at odds with the charitable donation receipt issued by ICCC, and with his Notice of Objection. The ICCC receipt showed the "date donation received" as "February – December 2006" rather than a single date. In his Notice of Objection Mr. Akinbo stated that "I made the donations at various times." When asked in cross-examination about this statement Mr. Akinbo said that it had been written by his spouse. He also stated that he signed it without reading it. He did not call his spouse to confirm that she had prepared the objection.

[8] Another inconsistency between the letter attached to his Notice of Objection and his testimony in Court was that, he stated that he made the donations because he was a "a member of the organization," whereas in his testimony he said he only attended ICCC once, and never became a member.

[9] Mr. Akinbo produced copies of charitable donation receipts from other charities for 2010, 2011 and 2012, and copies of certified cheques made payable to those charities. He testified that he began using certified cheques to make charitable donations after his donation to ICCC was challenged by the Canada

Revenue Agency. However, I am not convinced that these records support Mr. Akinbo's testimony concerning his alleged donation to ICCC. First, these other donations were made a number of years after the alleged ICCC donation, and second, the donations were almost all made to one of two charities that Mr. Akinbo and his spouse appear to have regularly donated to. In my view this is different from a donation to a charity with which Mr. Akinbo had no connection either before or after his supposed donation.

[10] Given the inconsistencies and implausibilities in Mr. Akinbo's evidence that I have set out, I find that his evidence is not reliable, and for that reason he has not shown that he made any donation to ICCC in 2006.

[11] In light of this finding, it is not necessary for me to address the respondent's alternative argument that the charitable donation receipt from ICCC did not contain all of the information prescribed by the *Regulations*.

[12] For all these reasons, the appeal is dismissed.

Signed at Ottawa, Canada, this 7th day of July 2014.

"B.Paris"

Paris J.

CITATION: 2014 TCC 214
COURT FILE NO.: 2012-2849(IT)I
STYLE OF CAUSE: AKINOLA AKINBO AND HER
MAJESTY THE QUEEN
PLACE OF HEARING: Toronto , Ontario
DATE OF HEARING: June 17, 2014
REASONS FOR JUDGMENT BY: The Honourable Justice B. Paris
DATE OF JUDGMENT: July 7, 2014

APPEARANCES:

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

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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