

Federal Court



Cour fédérale

Date: 20241017

Docket: T-708-23

Citation: 2024 FC 1643

Ottawa, Ontario, October 17, 2024

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

MINISTER OF NATIONAL REVENUE

Applicant

and

SEYED ABBAS SHOKOUHI

Respondent

JUDGMENT AND REASONS

[1] The Minister of National Revenue is seeking an order pursuant to section 231.7 of the *Income Tax Act*, RSC 1985, c 1 (5th suppl) [the Act], requiring Mr. Shokouhi to provide certain documents. For the reasons that follow, I am allowing the Minister's application in part.

[2] In November 2020, pursuant to section 231.1 of the Act, the Minister issued a requirement to Mr. Shokouhi to provide information in relation to years 2014 to 2018, including statements for a credit card issued by the National Bank of Kuwait and for a bank account with

the same institution. Mr. Shokouhi applied for judicial review of this requirement. However, my colleague Justice Alan Diner dismissed his application and held that the requirement was valid: *Shokouhi v Canada (Attorney General)*, 2021 FC 1340. That was three years ago.

[3] Since then, Mr. Shokouhi has provided some of the information requested. In particular, he provided a statement for the credit card, covering the years 2016 and 2017, and a statement for the bank account, covering the year 2016 only. The Minister is now seeking an order pursuant to section 231.7 in respect of the missing years. The Minister also asked for an order with respect to “any other bank accounts in the name of or belonging to the taxpayer’s brother”, but abandoned this further request at the hearing.

[4] Mr. Shokouhi first argues that the documents now sought by the Minister were not included in the initial request for information pursuant to section 231.1, and that this deficiency is fatal to the Minister’s application. This, however, is incorrect. The November 10, 2020, request for information asked for statements for the credit card used to make payments to specific businesses, as well as the statements for the bank account used to pay that credit card. Further communications between the parties identified this credit card and bank account, and they are now the subject of the present application. Thus, there is no breach of the principle that an order pursuant to section 231.7 can only relate to information previously sought pursuant to sections 231.1 or 231.2.

[5] Mr. Shokouhi then argues that the Minister’s application should be dismissed because the credit card and the bank account belong to his brother. He argues that he has no control over his

brother, who never set foot in Canada, and that an order pursuant to section 231.7 can only pertain to information that is under the control of the respondent.

[6] Mr. Shokouhi's argument fails on the facts. The credit card statements that were provided are in the name of "Seyed Shokohi," which may refer to either Mr. Shokouhi or his brother. Almost all transactions are in Canadian dollars and as far as one can tell, a large majority are for purchases made in the Montreal area. This tends to show that the card is being used by Mr. Shokouhi and not by his brother, who we are told never came to Canada. The fact that Mr. Shokouhi was able to disclose the statements for the years 2016 and 2017 tends to show that he is in possession of, or would be able to obtain, the statements for 2014, 2015 and 2018.

[7] The bank account statement that was provided is in the name of "Seyed Abdollah Shakouhi," who I assume is Mr. Shokouhi's brother. Nevertheless, the statement shows that this account was used on many occasions to pay the balance of the credit card. There are also transfers of large amounts to "Sayed Abaas Shkohi," which appears to refer to Mr. Shokouhi. From this I infer that this account is used to channel significant amounts of money to Mr. Shokouhi, and could therefore be "relevant in determining the obligations or entitlements of the taxpayer or any other person under this Act", to use the current language of paragraph 231.1(1)(a) of the Act. Moreover, Mr. Shokouhi's ability to disclose the statement for the year 2016 suggests that he is in possession of, or would be able to obtain, the statements for 2014, 2015, 2017 and 2018.

[8] In an affidavit dated May 11, 2023, Mr. Shokouhi stated that the bank account belongs to his brother, but he did not say to whom the credit card account belongs. While he objected to the Minister's requirement to produce bank statements for an account belonging to his brother, he did not say that his brother refused to communicate the statements or that he anticipates any kind of difficulty in obtaining the statements from his brother. At the hearing, counsel for Mr. Shokouhi suggested that there might be certain obstacles, but the evidence is silent in this regard. From this, I conclude that Mr. Shokouhi has not shown that the credit card and bank account statements are beyond his reach.

[9] Relying on the former language of paragraph 231.1(1)(a) of the Act, Mr. Shokouhi also argues that the credit card statements and bank account statements are not documents that are or should be "in the books of the taxpayer," because they are in his brother's name. I disagree. In all likelihood, the credit card is used to pay Mr. Shokouhi's personal expenses or those of his family, and the bank account is used to pay the credit card balance and to transfer money to Mr. Shokouhi. These expenses and the sources of money used to pay for them should be in Mr. Shokouhi's books. Thus, even if the account is in his brother's name, the documents sought by the Minister are "document[s] . . . of any other person that relate[] or may relate to the information that is or should be in the books or records of the taxpayer," to quote more fully from the former version of paragraph 231.1(1)(a). In other words, the documents sought need not themselves be "in the books" of the taxpayer; they need only relate to information that should be in those books. For this reason, I do not need to decide whether the current or the former wording of paragraph 231.1(1)(a) governs the case.

[10] For these reasons, the Minister is entitled to an order requiring Mr. Shokouhi to provide the missing credit card and bank account statements.

[11] The Minister also requests a “basket clause” covering “any other bank statement, investment statement or credit card statement not yet provided by the taxpayer.” At the hearing, counsel for the Minister stated that they were not aware that Mr. Shokouhi failed to provide any other document, but wished to add a “basket clause” in case new information comes to light. I explained my reluctance to issue an order the scope of which is not defined with minimal precision, given that failure to comply amounts to contempt of court: see, for example, *Lululemon Athletica Canada Inc v Campbell*, 2022 FC 194 at paragraph 35; *Cambie Surgeries Corp v British Columbia (Medical Services Commission)*, 2010 BCCA 396 at paragraph 39; and *NunatuKavut Community Council Inc v Nalcor Energy*, 2014 NLCA 46 at paragraph 71. Counsel did not press the matter further. Accordingly, my order will not include a “basket clause.” As this issue was not fully argued, I refrain from expressing any firm opinion as to the circumstances in which it may be appropriate to issue a “basket clause” in an order pursuant to section 231.7.

JUDGMENT in file T-708-23

THIS COURT'S JUDGMENT is that:

1. Within thirty (30) days after being served with this judgment, the Respondent shall communicate the following information to the Applicant:
 - a) Statements for the National Bank of Kuwait credit card with number ending in 0468 for the years 2014, 2015 and 2018;
 - b) Statements for the National Bank of Kuwait bank account with number ending in 1186 for the years 2014, 2015, 2017 and 2018.
2. Documents and information shall be sent to Jean-Michel Legault, CRA auditor, at the Montreal Tax Services Office, located at 305 René Lévesque Blvd. W., Montréal, QC, H2Z 1A6.
3. The Respondent is condemned to pay the costs of this application to the Applicant.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-708-23

STYLE OF CAUSE: MINISTER OF NATIONAL REVENUE v SEYED
ABBAS SHOKOUHI

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: OCTOBER 10, 2024

JUDGMENT AND REASONS: GRAMMOND J.

DATED: OCTOBER 17, 2024

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