Federal Court Cour fédérale

Date: 20250925

Dockets: T-2254-24
T-2255-24

Citation: 2025 FC 1573

Ottawa, Ontario, September 25, 2025

PRESENT: The Honourable Mr. Justice Zinn

Docket: T-2254-24

BETWEEN:

NIKITA GADA

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Docket: T-2255-24

BETWEEN:

KEYUR GADA

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] I have prepared only one set of reasons, as the material facts and arguments raised are the same in T-2254-24 and T-2255-24, aside from minor differences in the monetary figures which do not impact the decisions at hand. A copy of these Reasons will be filed in each matter.

[2] The Applicants are husband and wife, who were both assessed taxes, interest and penalties for over contributions to their individual Tax-Free Savings Accounts [TFSA]. At the same time, both experienced losses exceeding 90% in their TFSA investments.

[3] For the sake of simplicity and to provide an illustration, I shall focus on the facts relating to Mr. Gada.

Facts

[4] Between 2014 and 2022, Mr. Gada contributed a cumulative amount of $286,500 to a self-directed TFSA account. However, owing to a pattern of unsuccessful investments, by 2022 he had suffered losses of $269,518.29, leaving his account balance almost entirely depleted. His excess contributions during this period totalled approximately $205,000.

[5] In 2014, during his first year of investing, Mr. Gada contributed $31,000, the full amount of his available contribution room for that year. In 2015, Mr. Gada contributed an additional $20,100, marking the first of a series of over contributions that continued through 2022.

[6] Beginning in May 2016, the Canada Revenue Agency [CRA] advised Mr. Gada of his excess contributions for the 2015 taxation year. Additionally, for each of the 2015 through 2022 taxation years, the notices of assessment [NOA] sent by the CRA to the Applicants also identified the quantum of over contributions, set out the monthly tax assessed on the highest excess amount, and advised each: "If there is currently an excess amount in your TFSA, you should withdraw it immediately to limit any future tax."

[7] Mr. Gada maintains that he did not become aware of his "mistake" until the 2018 taxation year, at which time his TFSA balance was $16,986.06, while his over contributions totalled $52,000. He states that this is when it became impossible for him to remove the excess amounts as the funds in the TFSA were less than the excess amount.

[8] In May 2023, after obtaining professional advice, Mr. Gada withdrew the remaining balance of his TFSA, totalling $5,690.64. Until then, he had not made any withdrawals to reduce his over contributions; Mr. Gada explains that he believed his only option was to "make further contributions to his TFSA, invest further, and then use the gains on that investment to make a full withdrawal of the overcontribution."

[9] By letter dated August 31, 2023, Mr. Gada requested relief from the taxes, penalties, and interest assessed under Part XI.01 of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) [ITA], for the 2016 through 2023 taxation years.

> [O]n his extraordinary facts, the Taxpayer hereby requests:
>
> a. The cancellation of taxes to the extent possible under subsection 207.02(4) of the ITA;

b. Relief from penalties and interest to date and any penalties and interest which may accrue in future under subsection 220(3.1) of the ITA; and

c. Remission from taxes accrued to date under subsection 23(2) of the FAA [*Financial Administration Act*], and remission under that provision from taxes which will accrue as a result of his negative contribution room until such time as he has positive TFSA contribution room.

[10] Subsection 207.06 (1) of the ITA provides discretion to the Minister to waive or cancel an individual taxpayer's tax liability arising from TFSA over contributions:

Waiver of tax payable	**Renonciation**
207.06 (1) If an individual would otherwise be liable to pay a tax under this Part because of section 207.02 or 207.03, the Minister may waive or cancel all or part of the liability if	**207.06 (1)** Le ministre peut renoncer à tout ou partie de l'impôt dont un particulier serait redevable par ailleurs en vertu de la présente partie par l'effet des articles 207.02 ou 207.03, ou l'annuler en tout ou en partie, si, à la fois :
(a) the individual establishes to the satisfaction of the Minister that the liability arose as a consequence of a reasonable error; and	**a)** le particulier convainc le ministre que l'obligation de payer l'impôt fait suite à une erreur raisonnable;
(b) one or more distributions are made without delay under a TFSA of which the individual is the holder, the total amount of which is not less than the total of	**b)** sont effectuées sans délai sur un compte d'épargne libre d'impôt dont le particulier est titulaire une ou plusieurs distributions dont le total est au moins égal au total des sommes suivantes :
(i) the amount in respect of which the individual would otherwise be liable to pay the tax, and	**(i)** la somme sur laquelle le particulier serait par ailleurs redevable de l'impôt,
(ii) income (including a capital gain) that is	**(ii)** le revenu, y compris le gain en capital, qu'il est

reasonably attributable, directly or indirectly, to the amount described in subparagraph (i).	raisonnable d'attribuer, directement ou indirectement, à la somme visée au sous-alinéa (i).

[11] Subsection 220 (3.1) of the ITA provides the Minister with the discretionary authority to waive or cancel all or part of any penalties or interest payable by the taxpayer in extenuating circumstances:

Waiver of penalty or interest	**Renonciation aux pénalités et aux intérêts**
220 (3.1) The Minister may, on or before the day that is ten calendar years after the end of a taxation year of a taxpayer (or in the case of a partnership, a fiscal period of the partnership) or on application by the taxpayer or partnership on or before that day, waive or cancel all or any portion of any penalty or interest otherwise payable under this Act by the taxpayer or partnership in respect of that taxation year or fiscal period, and notwithstanding subsections 152(4) to (5), any assessment of the interest and penalties payable by the taxpayer or partnership shall be made that is necessary to take into account the cancellation of the penalty or interest.	**220 (3.1)** Le ministre peut, au plus tard le jour qui suit de dix années civiles la fin de l'année d'imposition d'un contribuable ou de l'exercice d'une société de personnes ou sur demande du contribuable ou de la société de personnes faite au plus tard ce jour-là, renoncer à tout ou partie d'un montant de pénalité ou d'intérêts payable par ailleurs par le contribuable ou la société de personnes en application de la présente loi pour cette année d'imposition ou cet exercice, ou l'annuler en tout ou en partie. Malgré les paragraphes 152(4) à (5), le ministre établit les cotisations voulues concernant les intérêts et pénalités payables par le contribuable ou la société de personnes pour tenir compte de pareille annulation.

[12] Subsection 23(2) of the *Financial Administration Act*, RSC 1985, c F-11, provides another route to obtain relief from taxes, interest and penalties:

Remission of taxes and penalties	**Remise de taxes ou de pénalités**
23 (2) The Governor in Council may, on the recommendation of the appropriate Minister, remit any tax or penalty, including any interest paid or payable thereon, where the Governor in Council considers that the collection of the tax or the enforcement of the penalty is unreasonable or unjust or that it is otherwise in the public interest to remit the tax or penalty.	**23 (2)** Sur recommandation du ministre compétent, le gouverneur en conseil peut faire remise de toutes taxes ou pénalités, ainsi que des intérêts afférents, s'il estime que leur perception ou leur exécution forcée est déraisonnable ou injuste ou que, d'une façon générale, l'intérêt public justifie la remise.

[13] The CRA divided the requests for relief, distinguishing between those relating to taxes and those concerning penalties and interest under the ITA, and ultimately denied both. At the hearing, counsel for the Respondent advised that these requests fall under different provisions of the ITA and are administered independently, which accounted for the distinction. Only the decision relating to the request for relief from taxes is before the Court, as that decision issued first. The request for relief under the provisions of the *Financial Administration Act* does not appear to have been dealt with by the Minister.

[14] On November 16, 2023, the First Officer refused Mr. Gada's request to waive the tax liability because the request did not satisfy the two conditions for ministerial discretion under subsection 207.06 (1) of the Act [the First Decision]. The First Officer concluded that Mr.

Gada's misinterpretation of the TFSA rules did not constitute a "reasonable error" and that he did not act immediately to remove his excess contributions.

[15] After his request for relief was refused, Mr. Gada submitted a second request for review of the First Decision. By letter dated July 26, 2024, the Second Officer refused Mr. Gada's second request and affirmed the First Officer's decision [the Second Decision]. That is the decision under review.

Issues

[16] The question before the Court is whether the decisions under review are reasonable as described by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], at para 86:

> … In *Dunsmuir*, this Court explicitly stated that the court conducting a reasonableness review is concerned with "the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes": para. 47. Reasonableness, according to *Dunsmuir*, "is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process", as well as "with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law": *ibid*. In short, it is not enough for the outcome of a decision to be *justifiable*. Where reasons for a decision are required, the decision must also be *justified*, by way of those reasons, by the decision maker to those to whom the decision applies. While some outcomes may be so at odds with the legal and factual context that they could never be supported by intelligible and rational reasoning, an otherwise reasonable outcome also cannot stand if it was reached on an improper basis. [emphasis in original]

[17] Mr. Gada advances four bases that he says demonstrates the decision under ss 207.06 (1) was unreasonable. First, it fails to address his central concern that it was impossible to withdraw the excess contributions because the value of his TFSA was consistently below the overcontributed amount. Second, it does not address the reasonableness of his conduct when it was no longer possible for him to withdraw the excess amounts due to an insufficient TFSA balance. I refer to this as the impossibility argument. Third, the decision lacks transparency and relies on boilerplate reasoning without meaningful analysis of his circumstances. Fourth, the decision has a severe impact on Mr. Gada, as he received no benefit from the contributions, lost nearly all his invested funds, and remains indefinitely liable, yet no individualized or thorough reasons are provided to address these consequences.

[18] The Minister submits that the decision is reasonable. First, the Minister says that "[a] reasonable error does not include a misunderstanding of one's contribution room or a taxpayer's negligence, or carelessness in contributing to their TFSA." The Minister notes that Mr. Gada repeatedly overcontributed to his TFSA between the 2016 and 2022 taxation years and, throughout this period, did not seek advice from a professional or information from the CRA as to how TFSAs operated. This pattern of conduct, in the Minister's view, supports the conclusion that Mr. Gada's over contributions were not the result of a "reasonable error." Second, the Minister submits that the decision reasonably found that Mr. Gada did not remove the excess TFSA contributions within a reasonable timeframe, notwithstanding that funds remained in the account until May 16, 2023. Finally, the Minister says that the decision "engaged with the applicant's submissions regarding the reasons for over-contributing to his TFSA and the delay in removing the over-contributions," noting that *Vavilov* does not require that decision makers "address every argument, particularly if they were not central to the request."

[19] Based on the unique set of facts before the Court, I find the Minister's decision on both aspects of subsection 207.06 (1) is reasonable.

Reasonable Error

[20] A decision maker must provide reasons that are responsive to the submissions made. While it is not necessary to address every argument advanced, a failure to grapple with a submission that goes to a central issue will undermine the transparency and intelligibility of the decision: *Vavilov* at paras 127 and 128.

[21] Mr. Gada contends that the decision on "reasonable error" does not deal with the central issues raised in his submissions. In this regard, Mr. Gada stated:

> The Applicant faced circumstances where the only way to avoid almost indefinite recurring liability was to invest further to attempt to regain his initial contributions so that he could make a full withdrawal of his overcontribution. This reality should have been central to the Decision's analysis (as it was central to the Applicant's submissions) of whether the Applicant made a reasonable error for the self-evident reason that what is reasonable for a taxpayer with the *ability* to withdraw excess contributions is not reasonable for a taxpayer for whom doing so is an impossibility. Instead, this dynamic is *entirely* absent from the Decision. [emphasis in original]

[22] Mr. Gada characterizes his circumstances as a "Hobson's choice," in that he had no ability to withdraw his excess contributions except by making additional TFSA contributions. He argues that the post-2018 impossibility (i.e., when his account had insufficient funds) is the essence of his case, and not whether his initial over contributions were made in error.

[23] In my view, however, Mr. Gada is advancing two distinct arguments. The first is that his initial over contributions were the product of a "reasonable error," grounded in his understanding of the NOA assessments informing him of his over contributions. In his submissions to the Minister, he explains this misunderstanding:

> After losing all his initial investments, the Taxpayer initially believed he was able to replenish his TFSA to the minimum contribution room available to taxpayers on a yearly basis.
>
> By the time it became apparent that this was not the case, it was too late for the Taxpayer to withdraw his additional contributions because they had already been lost.
>
> Due to the strict construction of legislation, the Taxpayer's only apparent option was to continue to invest to attempt to recoup his investments such that he could remove them to create additional contribution room.

[24] The second is that once this misunderstanding was resolved after 2018, the impossibility of withdrawing the excess due to insufficient funds became determinative and the reasonableness of his actions in that context must be assessed separately:

> The Taxpayer's investment losses are a critical point. At all relevant times, the Taxpayer had insufficient funds to be able to fully remove the overcontributions from the TFSA account. It was always impossible for him to be able to remove the overcontributions in full because they no longer existed. This significantly coloured the Taxpayer's attempts at compliance; he paid the taxes he was assessed as best as he could and attempted to increase his TFSA investments so that he could actually realize investment gains within the account so that he could reduce the lost balance. The CRA's broad discretion to cancel taxes and to waive penalties are meant to address exactly this kind of situation.
>
> The Taxpayer does not dispute that he made overcontributions. Nor, as the TFSA Decision alleges, does he rely on lacking knowledge of the law. The essence of his submission is that a strict, literal reading of the legislation defies logic and creates an impossible obligation: how could a taxpayer remove an initial overcontribution that was invested into a loss? The Taxpayer is

> faced with a Hobson's choice (i.e., no choice at all): either he would need to continue overcontributing funds to try and invest for gains that can be removed to make up for the "excess" or continue holding onto the failing investments and hope that they turn positive. Both options are inequitable and would require the Taxpayer to have incredible luck in a volatile market. This makes no sense. That is why the Taxpayer turns to statutory safeguards that equip the CRA with discretionary tools to enforce the taxation regime equitably.

[25] I address each in turn, beginning with the period of his initial over contributions for the period from 2016, when he received his first NOA identifying the excess, to 2019, when he says he realized his "mistake" following the receipt of the 2018 NOA.

[26] Mr. Gada argues that the CRA guideline relied on by the decision maker defines "reasonable error" so narrowly that it leaves almost no room for relief. He points to the Federal Court of Appeal's criticism in *Connolly v Canada (National Revenue)*, 2019 FCA 161 [*Connolly*] at para 67, where the Court observed that "[n]early every error a taxpayer might make in over-contributing to his or her RRSP (other than a simple arithmetical error) will be caused by a misunderstanding of the applicable limits—an error of law. If these sorts of errors are read out of the reach of subsection 204.1(4) of the *ITA*, it will have virtually no scope."

[27] *Connolly* involved an over contribution to the taxpayer's Registered Retirement Savings Plan. The relevant provision of the Act providing for relief in such circumstances is subsection 204.1 (4), which parallels the operative provision here, subsection 207.06 (1). However, the factual matrix in the case before this Court is distinguishable from that in *Connolly*. Mr. Connolly did not file income tax returns between 1988 and 2003 because he owed no tax in those years. As a result, he received no NOAs prior to 2005 for the 1997 to 2003

taxation years, and thus was never informed of his unused contribution room during that period. Even when NOAs were later issued, they did not indicate that he had overcontributed. In those circumstances, the Federal Court of Appeal declined to penalize Mr. Connolly for failing to make inquiries about his contribution limits or for relying on a third party. The Court's reasoning was rooted in the absence of clear notice to the taxpayer and the fact that his situation was not of his own making. That context stands in sharp contrast to Mr. Gada, who received NOAs beginning in 2016 identifying his over contributions and yet continued to contribute in subsequent years.

[28] In the present matter, I find that Mr. Gada's repeated pattern of over contributions in the pre-2018 period cannot be characterized as a "misunderstanding of the applicable limits" as contemplated by *Connolly*. Mr. Gada says he initially "misunderstood the reason for these taxes being assessed" and only in 2018 did he "begin to realize his mistake" when it was "impossible for him to remove" the over contributions. That explanation may account for an isolated error, and a single overcontribution made after receiving the first NOA might arguably have been accepted as a reasonable error. But that is not what occurred here. The evidence shows that Mr. Gada continued to make substantial contributions in 2016 and 2017, despite having received notice of his excess contributions each year. In my view, the decision was reasonable in concluding that such conduct cannot be explained away as a reasonable error.

[29] In *Connolly*, the Federal Court of Appeal also distinguished between taxpayers who misunderstood the rules "after making reasonable inquiries" and those who did not. The former, it reasoned, "might well constitute a reasonable error," while for the latter "it is difficult to see how a taxpayer's ignorance about the fact that RRSP contributions are subject to a limit could be

considered reasonable." Here, the decision noted that Mr. Gada could have contacted the CRA's General Enquiries line or sought help from "an authorized representative" to manage his affairs. He did neither. Mr. Gada acknowledges and does not dispute that he made no efforts to seek advice from a professional until 2023.

[30] Furthermore, this Court has held that a failure to properly read a notice of assessment is not a justifiable misunderstanding nor excuse. This principle was articulated by Justice Ferron in *Worobec v Attorney General of Canada*, 2025 FC 1319 [*Worobec*] at para 57:

> Thus, while it may very well be that the overcontribution to his TFSA resulted in various errors of good faith, the Court is of the view that it was not unreasonable for the Minister to consider that Mr. Worobec had been properly advised of the situation, by way of yearly NOA, from 2018 to 2021. The Court agrees with the AGC that failure to properly read the NOA received is not something that falls into the category of "reasonable error".

[31] While Mr. Gada reminds this Court that his disagreement lies in the decision's failure to address the reasonableness of his conduct once withdrawal became impossible, his pre-2018 conduct was central to the Minister's decision and inextricably linked to his circumstances following the 2018 taxation year. In this regard, I find it was reasonable for the Minister to conclude that his conduct during this period did not amount to a "reasonable error."

[32] I turn next to the issue of impossibility after the 2018 taxation year. Mr. Gada argues that the decision maker was also required to assess the reasonableness of his post-2018 conduct once withdrawing the over contributions became impossible. He says "it is no answer at all to claim that the Applicant was provided notice of the requirements *after* it was no longer possible for the Applicant to correct his circumstances." He relies on this Court's decision in *Gekas v Canada*

(Attorney General), 2019 FC 1031 [*Gekas*], for the proposition that a decision maker must consider the issue of whether the Applicant was provided notice and the question of whether "other excess amounts" were within their control as "logically separate" issues. In other words, he says that the decision must have also addressed the reasonableness of his conduct once withdrawal became impossible.

[33] While *Gekas* does stand for that proposition, its facts are distinguishable from the present matter. *Gekas* involved a situation where the Applicant relied on a third party's actions. The Court found the decision unreasonable because it failed to properly assess errors made by persons other than the applicant. The over contributions there arose from "miscommunications" with his financial institution and were thus beyond his control. At paragraph 31, Justice Boswell stated:

> Just because the Applicant was notified of a previous excess contribution on four occasions in 2016 does not mean he can control a third party's actions or that this is somehow connected to the question at hand. A person can make a mistake and over-contribute when they have control but they cannot prevent mistakes by others. In my view, the Delegate's decision is unreasonable because it did not fully assess the extent to which the excess contributions resulted from the mistakes of persons other than the Applicant. The decision will therefore be set aside and the matter returned to the Minister for redetermination by a different delegate. [emphasis added]

[34] In the present matter, the circumstances pre- and post-2018 were fully within Mr. Gada's control as a taxpayer. There is no third-party involvement here. Accordingly, only Mr. Gada can be held responsible for his current circumstances.

[35] In *Yew v Canada (Revenue Agency)*, 2022 FC 904 [*Yew*], Justice Little distinguished that case, which involved an applicant who mistakenly overcontributed to her TFSA, from *Gekas*. At paragraph 59 of *Yew*, he stated:

> … this is not a circumstance in which the applicant's over-contributions were outside her control, as occurred in *Gekas*, at paras 5 and 30-31. In that case, a miscommunication between the taxpayer and his financial institution caused an employee to make an erroneous deposit into his TFSA instead of another account. The mistake was not in the taxpayer's control because someone else made the mistake. In the present case, the applicant made the mistakes herself and in law was responsible for them. [emphasis added]

[36] Even if the decision-maker was required to address the reasonableness of Mr. Gada's post-2018 conduct, I am satisfied that it did so. The decision acknowledged his lack of funds to fully remove the excess contributions and advised him to seek professional guidance. It also re-iterated his responsibility for understanding TFSA rules under Canada's self-assessment taxation system. In doing so, it responded to his circumstances and explained that his conduct was not a "reasonable error." In *Lutzko v Canada (Attorney General)*, 2024 FC 1953 [*Lutzko*] at para 32, Justice Whyte Nowak accepted this as sufficient reasoning in a CRA decision that responded to the applicant's claim that their medical condition was responsible for their TFSA over contributions: "The CRA explained why the Applicant's position did not constitute grounds for 'reasonable error' given the Applicant's responsibility in a self-assessing taxation system and the fact that the CRA does not consider misinterpreting the TFSA contribution limits to be a reasonable error. This rationale has been upheld in jurisprudence of this Court (*Yew v Canada (Revenue Agency)*, 2022 FC 904 at paras 53-54)." As *Vavilov* instructs, reviewing courts cannot expect or require decision makers to address every argument, and their reasons are not to be judged against a "standard of perfection" (*Vavilov*, para 91).

[37] It is not the responsibility of the CRA to address how Mr. Gada can rectify his tax affairs. Like all taxpayers, Mr. Gada bears responsibility for his own compliance. As the Federal Court of Appeal stressed in *Connolly* at paragraph 69, taxpayers have an obligation to take reasonable measures to comply with the Act:

> … However, it is important to underscore that, because the Canadian tax system is based on self-assessment, it is incumbent on tax payers to take reasonable steps to comply with the *ITA*, including by seeking advice where necessary: see *R. v. McKinlay Transport Ltd.*, 1990 CanLII 137 (SCC), [1990] 1 S.C.R. 627, at page 636, (1990), 106 N.R. 385; *Guindon v. Canada*, 2015 SCC 41, [2015] 3 S.C.R. 3, at paragraph 54; see also *Dimovski*, at paragraph 17 (making this point in the RRSP context). Given this obligation, it is difficult to see how a taxpayer's ignorance about the fact that RRSP contributions are subject to a limit could be considered reasonable. By contrast, being misinformed about the contribution limit after making reasonable inquiries might well constitute a reasonable error. Likewise, the mere fact that a taxpayer has relied on an expert third party for advice is not determinative. Rather, the circumstances of such reliance need to be analyzed to determine if it was reasonable. Thus, reliance on a third party, such as an accountant, in and of itself, neither entitles nor disentitles a taxpayer to relief under subsection 204.1(4) of the *ITA*.

[38] In *Yew*, these principles were reiterated in the context of TFSA:

> [51] For TFSA purposes, the taxpayer is responsible to be aware of their contribution limits and to ensure that their contributions comply with applicable rules: *Rempel v Canada (Attorney General)*, 2021 FC 337, at para 26; *Jiang*, at paras 11-13.
>
> [52] Justice Diner stated in *Weldegebriel*, at para 10:
>
> > ...as a self-reporting system, the onus was on [the taxpayer] to understand the law (*Kapil v Canada Revenue Agency*, 2011 FC 1373 at para 24); ignorance of the rules, particularly in a system which relies on the taxpayer, is not an excuse. As Justice O'Keefe held in *Lepiarczyk v Canada Revenue Agency*, 2008 FC 1022 at para 19, "while

> innocence may be a factor to consider, it is not determinative in the present case."

[39] For these reasons, I am satisfied that the Minister's determination on the "reasonable error" aspect of the test was reasonable.

Without Delay

[40] I also find that the conclusion that Mr. Gada did not withdraw his excess contributions without delay was reasonable.

[41] The "without delay" criterion has been described as a period of 30 days after the taxpayer is informed of the over contribution: see *Fang v Canada (Attorney General)*, 2024 FC 1399 at para 38; *Ossai v Canada (Attorney General)*, 2023 FC 313 at para 24, citing *Posmyk v Canada (Attorney General)*, 2021 FC 393 at para 4.

[42] Mr. Gada was made aware of his over contributions by the CRA as early as 2016 (for the 2015 taxation year) before the situation of impossibility arose in the 2018 taxation year. The evidence in the record assessed by the CRA shows that even after Mr. Gada was advised to remove his over contributions without delay based on the initial NOA received, Mr. Gada only removed the final balance in May 2023. I am not persuaded that Mr. Gada acted without delay according to the requirements of subsection 207.06 (1) of the ITA.

[43] Mr. Gada says he understood the NOAs as requiring him to withdraw the "full amount" of the excess contributions. Each NOA stated: "If there is currently an excess amount in your

TFSA, you should withdraw it immediately to limit any future tax." I consider this Court's recent decision in *Worobec*, where the applicant argued that investment losses prevented him from removing the excess amounts and that the decision was not responsive to this concern. At paragraph 70, Justice Ferron observed:

> Moreover, the Decision acknowledged that even if Mr. Worobec was "unable to remove the full amount of their excess due to losses in the fair market value in their TFSA, upon notice they must have removed all available funds". The fact that Mr. Worobec may not have been able to fully remove all excess contributions did not relieve him of the requirement to remove what he could without delay. [emphasis added]

[44] In the present matter, the decision is similar but distinguishable in part. While the decision does acknowledge Mr. Gada's impossibility of removing all excess funds, it does not explain that Mr. Gada should have removed all "available funds" rather than the full amount upon receiving notice. Instead, as the Applicant highlights, the decision only states that "these additional amounts were not removed within a reasonable time frame." Mr. Gada argues that this reasoning showed that the decision maker did not meaningfully engage with the impossibility of removing the additional over contributions.

[45] In my view, this omission is not a "fatal flaw" that undermines the overarching logic of the decision. The decision acknowledged Mr. Gada's circumstances but also made clear that he remained responsible for his excess contributions and failed to take corrective action, other than continuing to contribute in the hope of investment gains. It further noted that he could have sought information through the CRA's telephone line and that Mr. Gada, as a taxpayer, was ultimately responsible for understanding TFSA rules under Canada's self-assessment taxation

system. As noted above, in *Lutzko* at paragraph 32, Justice Whyte Nowak accepted this as sufficient reasoning.

[46] Mr. Gada relies on *Howard v Canada (Attorney General)*, 2022 FC 1673 [*Howard*], to argue that the decision failed to address his central concern, as occurred there. In *Howard*, the issue was that Ms. Howard had no knowledge of her excess contributions because she did not receive an educational letter while abroad during the COVID-19 pandemic. The Court accepted that she lacked notice and was not at fault, unlike in *Rempel v Canada (Attorney General)*, 2021 FC 337; *Jiang v Canada (Attorney General)*, 2019 FC 629; and *Weldegebriel v Canada (Attorney General)*, 2019 FC 1565, as cited by the Minister. Mr. Gada's case is different. He was aware of his excess contributions and continued to add to them despite repeated notice. Whereas in *Howard* the decision maker failed to address the applicant's explanation for delay, the decision here did; it acknowledged Mr. Gada's inability to fully withdraw his contributions, advised him to seek professional guidance, and underscored the responsibility of taxpayers to understand the rules under the Canadian tax system.

[47] Finally, I agree with the Respondent that the Minister's discretion under subsection 207.06 (1) is limited to exceptional relief, available only where the statutory requirements are met and the Minister is satisfied that relief is warranted: *Messenger v Canada (Attorney General)*, 2021 FC 95 at paras 14-15; *Ifi v Canada (Attorney General)*, 2020 FC 1150 at para 16.

Procedural Fairness

[48] Mr. Gada failed to raise a procedural fairness issue in his memorandum, but did during oral argument. Most, if not all, of those submissions go to his view concerning the "unfairness" of the decision, rather than whether the decision made was done in a procedurally fair manner. I agree with the Respondent that the decision was procedurally fair because the Applicants were informed of the legal test and provided with two opportunities to make written submissions with supporting documents.

***Financial Administration Act* Relief**

[49] The request of the Applicants for relief under the *Financial Administration Act*, RSC 1985, c F-11, does not appear to have been addressed by the Minister. It ought to be. If the Applicants wish to make further submissions in that regard, the Minister ought to accept and consider them.

Conclusion

[50] For the reasons provided, these applications for judicial review are dismissed. The Court accepts the agreement of the parties that each party is to bear its own costs.

JUDGMENT in T-2254-24 & T-2255-24

THIS COURT'S JUDGMENT is that these applications are dismissed, without costs.

"Russel W. Zinn"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2254-24
STYLE OF CAUSE:	NIKITA GADA v ATTORNEY GENERAL OF CANADA
DOCKET:	T-2255-24
STYLE OF CAUSE:	KEYUR GADA v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	SEPTEMBER 3, 2025
JUDGMENT AND REASONS:	ZINN J.
DATED:	SEPTEMBER 25, 2025

APPEARANCES:

Nikita Gada Keyur Gada	FOR THE APPLICANTS (SELF-REPRESENTED)
Dakota Vigneux	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENT