Federal Court Cour fédérale

Date: 20250926

Docket: T-632-24

Citation: 2025 FC 1593

Ottawa, Ontario, September 26, 2025

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

WALID BANAYOT

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Walid Banayot [Applicant], seeks judicial review of a decision by the Minister of National Revenue [Minister] denying the Applicant's request of taxpayer relief from penalties and interest charges [Relief Request] pursuant to subsection 220(3.1) of the *Income Tax Act*, (RSC, 1985, c 1 (5th Supp)) [ITA] on balances that have been owing since 1995 and 1996. The Minister denied the Applicant's Relief Request [Decision].

[2] The Applicant submits that: the Canada Revenue Agency [CRA] should have granted his taxpayer Relief Request and waive outstanding tax debt balances; the CRA overcharged him interest and improperly garnished his wages and place a lien on his property; and, the Minister provided him incorrect information on the amount owed. He also raises various procedural issues. In sum, the Applicant seeks reimbursement of the amounts he paid the CRA, allegedly in excess, damages, and removal of the lien on his property in Quebec.

[3] The Court's role on an application for judicial review is to consider the reasonableness of the Decision being challenged. For the reasons that follow, the application for judicial review is dismissed. The Applicant has not demonstrated that the Decision is unreasonable.

I. Background and Decision Under Review

[4] Subsection 220(3.1) is one of a number of taxpayer relief provisions in the ITA intended to moderate the application of its many rigid requirements. These provisions permit the Minister to provide discretionary relief to taxpayers who, through personal misfortune or circumstances beyond their control, could not comply with their federal income tax obligations (*Brand v Canada (Attorney General)*, 2024 FC 159 at para 2). Cases also often refer to the Minister's delegate, who is a CRA employee authorized by the Minister to make decisions under subsection 220(3.1). For ease of reference, I will identify the Minister's delegate as the officer.

[5] The history of the Applicant's case begins in 1995, when the CRA reassessed the Applicant's 1991 taxation year, on March 16, 1995 [1991 Reassessment]. On May 3, 1996, the CRA reassessed the Applicant's 1992 taxation year [1992 Reassessment, collectively,

"Reassessments"]. The Reassessments resulted in an amount owing for each of the 1991 and 1992 Reassessments. Over the years, the unpaid tax debt accrued interest.

[6] Based on the record, the fact that there is a balance owing following the Reassessments and that interest has accrued on this balance is not in dispute. Rather, the Applicant challenges the amount of interest he has paid since then, characterizing it as over 3.5 times the initial amount owing, and the measures CRA took to collect on the tax debt, among other things.

[7] In 2001, the Applicant made a taxpayer relief request to the CRA to waive the interest owing under section 220(3.1) of the ITA. This request was refused. In 2004, the Applicant submitted another request for relief based on hardship and financial difficulties, also under section 220(3.1) of the ITA. This request was denied on December 18, 2007. Neither refusal was challenged.

[8] From 2008 to 2015, the Applicant received repeated written and verbal warnings from the CRA that he owed a balance, that interest would continue to accrue on this balance, and that CRA would take measures to collect on the amounts owing. As a result of the unpaid balance, the CRA registered a lien against the Applicant's property in Quebec in 2010 and obtained collection assistance from the Internal Revenue Service [IRS] in 2014, as the Applicant was residing in the US at that time. Throughout this period, the Applicant also made a series of payments on the tax debt, though not repaying it entirely.

[9] In June 2015, following a review by the CRA of a further application for taxpayer relief, the Applicant was granted partial relief on interest accrued from 2011 to 2015 for undue delays in processing caused by the CRA. The 1991 Reassessment tax debt was therefore satisfied on June 9, 2015, with only the tax debt arising from the 1992 Reassessment remaining.

[10] On December 3, 2021, the CRA called the Applicant to remind him that there is still a balance owing. On July 1, 2022, the Applicant submitted a Relief Request under subsection 220(3.1) of the ITA. The Applicant submitted that he had been unfairly refused a tax credit the government initially granted him, described the duration and complexity of the file, and argued that according to his calculations, he had been charged an incorrect interest rate. He also stated that the CRA had not considered that he had accepted a settlement offer in 1996 which was meant to reduce his tax liability. Following the CRA's invitations to submit documentation, upon which the Applicant acted, the request was reviewed by a CRA officer.

[11] In a decision dated February 26, 2024, the Applicant's Relief Request was refused. This Decision is the subject of this application for judicial review.

[12] In the Decision, the officer explained that Canada's tax system is based on self-assessments, and that to apply tax laws fairly and consistently, the CRA often reviews tax returns later to assess deductions and credits claimed. Accordingly, it was the Applicant's responsibility to file correct tax returns. Following the reassessments in 1995 and 1996, no further changes had been made to the Applicant's tax account balance owing. While the Applicant claimed having accepted a settlement offer in 1996, his continued appeal to the Tax Court of Canada was not

consistent with this assertion because a condition of settlement would have required the discontinuance of any such appeals.

[13] The Decision referred to the Applicant's file that also showed that the CRA, in multiple communications, informed him of the amount owed and that interest would continue to accrue, despite various processing delays. Since the Reassessments, the Applicant has had numerous communications with the CRA, particularly in the periods from 1996 to 1998, from 2008 to 2015, and from 2021 to 2024. Furthermore, the Applicant was also explained the correct dates of the statute of limitation and that the lien on his property in Quebec would remain in place until the balance was paid. The officer also noted that no interest accrued on the tax debt during the pandemic, between March 18, 2020, and September 30, 2020. The officer declined the taxpayer relief requested, concluding as well that arrears interest did not result from CRA delays or errors, natural or man-made disasters, and other circumstances.

II. Issues and Standard of Review

[14] It is evident that the Applicant is not satisfied with many elements related to his tax debt with the CRA. While the Applicant identified a list of alleged procedural issues and objections to steps taken by the CRA over the past few decades, only the February 26, 2024, Decision is the subject of this judicial review.

[15] As such, the proper framing of the issue before the Court on judicial review is whether the February 26, 2024, Decision refusing the Applicant's Relief Request was reasonable.

[16] The presumptive applicable standard of review to the merits of the Decision is reasonableness (Canada (*Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 25). It is well settled that the standard of review with respect to decisions under subsection 220(3.1) of the ITA, is reasonableness (*Spence v Canada Revenue Agency*, 2012 FCA 58 at para 5, citing *Canada Revenue Agency v Telfer*, 2009 FCA 23). I therefore conclude that the applicable standard of review on the merits of the Decision is reasonableness.

[17] Applying this standard of review, the Court must limit itself to deciding whether the Decision bears the hallmarks of reasonableness – justification, transparency and intelligibility (*Vavilov* at para 99). A Court applying the reasonableness standard does not ask what decision it would have made in place of the administrative decision maker (*Vavilov* at para 13). A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (*Vavilov* at para 90). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125-126).

[18] The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

III. Analysis

[19] As stated, cancellation or waivers of penalties and interest under subsection 220(3.1) of the ITA may be justified where a taxpayer has been unable to deal with their obligations due to

delays on the part of the CRA, extraordinary circumstances, or financial hardship. This subsection of the ITA is of exceptional and discretionary application (*Les Gestions Bussey Inc. v Canada (Attorney General)*, 2019 FC 17 at para 23; *Loyer (Succession) v Canada (Attorney General)*, 2019 FC 1528 at para 24).

[20] As recently summarized by the Federal Court of Appeal, in reviewing taxpayer relief decisions, the Federal Court must "start with the reasons of the Minister's delegate, read them with due consideration in light of the evidentiary record before the Minister's delegate, take into account that the Minister's delegate has a very wide, unconstrained discretion under subsection 220(3.1) of the Act to determine what is fair (itself a rather subjective and impressionistic concept that cannot be concretely defined), and, finally, assess whether the decision of the Minister's delegate fell outside the rather loose constraints in this case" (*Canada (Attorney General) v Maloney*, 2025 FCA 165 at para 6 [*Maloney*]).

[21] It is also not the role of the Court, on judicial review of the Decision, to decide whether a tax penalty ought to have been imposed, or how interest should have been calculated (*Neyedly v Canada (Attorney General)*, 2020 FC 678 at para 75, citing *Chekosky v Canada (Revenue Agency)*, 2019 FC 841 at para 39).

[22] I am mindful that the Applicant is self-represented and that he is frustrated by the duration of the interest payments and amounts he has paid to date. However, the Applicant has not identified any shortcomings or flaws sufficiently central or significant to the Decision refusing to waive interest on his 1992 tax debt that would warrant the Court's intervention.

Rather, by reiterating that the interest calculations were wrong, that he was imposed interest rates higher than prime, or that he has paid the CRA more than the principal he owes interest on, the Applicant is challenging how interest has been imposed. As stated above, this is an issue that the Court cannot resolve for the Applicant on judicial review.

[23] The Applicant has also taken issue with the fact that the IRS garnished his employment wages, resulting in his termination by his employer. He communicated the challenges since then in finding stable employment. However, the CRA's past decision to take collection measures against the Applicant such as garnishing wages and placing liens on property is not within the scope of this application for judicial review. I cannot, therefore, consider the Applicant's arguments on these issues in reviewing the reasonableness of the Decision.

[24] The Court is sympathetic to the Applicant's situation. However, judicial review is not an appeal. The Court cannot reweigh the evidence or undertake a new assessment of the Relief Request. For a decision to be reasonable, a reviewing court "must be able to trace the decision maker's reasoning without encountering any fatal flaws in its overarching logic, and it must be satisfied that the analysis within the given reasons could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived" (*Vavilov* at para 102).

[25] The Decision meets this requirement. The reasons in the Decision were connected to the evidence in the record, comprising of the Applicant's CRA history, the other tax relief request applications he previously made and those which had been granted to him, as well as his own statements and admissions throughout the lengthy history of this case. The record also included

CRA officers' notes recording discussions between various officers and the Applicant throughout the years. The reviewing officer also prepared a report setting out their analysis of the Relief Request in consideration of the factors in the ITA on tax relief applications.

[26] The Applicant argued that he advised the CRA that he accepted an offer to settle on August 15, 1996 [Acceptance Letter]. This would have waived part of the amount owed. While the Applicant acknowledges that he did not submit the Acceptance Letter to the CRA in his Relief Request, he states that the CRA should have considered it as it was a document it should have in its system. The Respondent objected to the admission of the Acceptance Letter in the Applicant's affidavit as it was not before the decision-maker and does not meet any of the exceptions set out in the case law (citing *Tsleil-Waututh Nation v Canada (Attorney General)*, 2017 FCA 128, at paras 97-98)

[27] While the Minister did not have a copy of the Acceptance Letter, the statement that the Applicant accepted an offer to settle in 1996 was submitted in the Applicant's Relief Request and it was considered by the officer. The Decision grappled with this assertion and found that the Applicant's contention that he accepted an offer to settle was inconsistent with the fact that he continued his appeal in the Tax Court of Canada. One of the conditions of settlement was to discontinue appeals before the Tax Court of Canada. In his other correspondence with the CRA, the Applicant had confirmed that he discontinued his appeal in 2007. Based on the record before the CRA, it was open to the Minister not to give the Applicant's statements about the offer to settle any weight. Other than the challenge to the Acceptance Letter in the officer's report, the Applicant did not identify any other factual errors related to the Decision.

[28] The officer also took into consideration the Applicant's arguments in his Relief Request and the evidence he presented. Indeed, the officer considered and engaged with the evidence before them, and in their reasons, addressed each of the Applicant's central arguments. In other words, the Decision was responsive to the Applicant's submissions (*Vavilov* at para 128).

[29] Furthermore, the Decision's reasoning is intelligible and logical and correctly applies the law. The Minister's exercise of discretion is aligned with the rationale of the statutory scheme in the ITA to provide equitable relief to taxpayers only in certain exceptional circumstances (*Vavilov* at para 108). Taking the Federal Court of Appeal's recent instruction in *Maloney* at paragraph 6, I cannot find that the officer fell outside the "rather loose constraints" in this case. In sum, the Decision meets the hallmarks of reasonableness, being coherent and rational in its analysis of the evidence and arguments provided. Noting the discretionary and exceptional nature of the taxpayer relief provision of the ITA, I cannot find that the Decision was unreasonable.

[30] Finally, I note that even if the Applicant had been successful, the Court could not have granted the remedy he was asking for, namely: a resolution of his CRA case, a refund from CRA, damages, and a removal of the lien on his property. The correct remedy would have been for the decision to be returned to the decision-maker for reconsideration (*Carpenter v Canada (Attorney General)*, 2020 FC 753 at para 34).

[31] The parties have submitted their joint position that the successful party ought to be awarded a lump sum of $500. Under the circumstances of this case and exercising my discretion, I find this amount to be reasonable. Costs shall accordingly be granted to the Respondent.

IV. Conclusion

[32] The application for judicial review is dismissed, with costs.

JUDGMENT in T-632-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. The Respondent is awarded $500 in costs.

3. The style of cause shall be corrected to name the proper Respondent as the "Attorney General of Canada".

"Phuong T.V. Ngo"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-632-24
STYLE OF CAUSE:	WALID BANAYOT v CANADA REVENUE AGENCY
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APPEARANCES:

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