

Federal Court of Appeal



Cour d'appel fédérale

Date: 20170605

Docket: A-419-16

Citation: 2017 FCA 118

[ENGLISH TRANSLATION]

**CORAM: NOËL C.J.
SCOTT J.A.
BOIVIN J.A.**

BETWEEN:

RONA INC.

Appellant

and

MINISTER OF NATIONAL REVENUE

Respondent

Heard at Montréal, Quebec, on June 5, 2017.

Judgment delivered from the Bench at Montréal, Quebec, on June 5, 2017.

REASONS FOR JUDGMENT BY:

BOIVIN J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT

(Delivered from the Bench at Montréal, Quebec, on June 5, 2017)

BOIVIN J.A.

[1] Rona Inc. (the appellant) is challenging before this Court an order (T-2059-15) rendered by Mr. Justice Martineau of the Federal Court (the judge). In his order, the judge authorized the Minister of National Revenue (the Minister) to serve him a Requirement for Information (RFI) concerning his business clients pursuant to subsection 231.2(3) of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.) (the ITA) and section 289 of the *Excise Tax Act*, R.S.C. 1985, c. E-15.

[2] Before this Court, the appellant tried to raise an error in law whereas all of its arguments are essentially directed against the discretionary power of the judge.

[3] More specifically, the appellant argues that the judge committed an error by authorizing the service of an RFI since the Minister's officials obtained a copy of a form used to open a commercial credit on the pretext that they were construction entrepreneurs. This was the form later used for preparing the RFI.

[4] However, after considering the behaviour of the Minister's officials, which he described as [TRANSLATION] "could have been reprehensible," the judge found that this behaviour was insufficient to justify the rejection of the RFI (Judge's Order, pp. 5–6).

[5] More specifically, he noted the following: (i) no consequences flowed from the behaviour of the Minister's officials; (ii) the form in question was blank, generally available to the public, and the appellant was not designated for audit; (iii) there was no risk that the administration of justice would be discredited if the RFI were served.

[6] The judge also pointed out that the information sought by the RFI already existed or was likely to be provided by the appellant. This information was of a type already covered by other RFIs and the Minister, during the course of the case, had considerably reduced the scope of the RFI at issue, dropping from 19 required pieces of information down to three, covering 57 stores—instead of 85—operating under the appellant's banner.

[7] Even if the criteria set out in the ITA are met, the judge has discretionary authority to remedy certain abuses, depending on the circumstances (*Canada (National Revenue) v. RBC Life Insurance Company*, 2013 FCA 50, [2013] F.C.J. No. 187 (QL)). Moreover, the Supreme Court of Canada recently reiterated that when a court of appeal is faced with the exercise of discretion by a judge, it must “be cautious in intervening, doing so only where it is established that the discretion was exercised in an abusive, unreasonable or non-judicial manner” (*Quebec (Director of Criminal and Penal Prosecutions) v. Jodoin*, 2017 SCC 26, [2017] S.C.J. No. 26 at paragraph 52 (QL)).

[8] In this case, the appellant did not convince us that the judge erred in exercising his discretion.

[9] The appeal will be dismissed with costs.

“Richard Boivin”

J.A.

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-419-16

STYLE OF CAUSE: RONA INC. v. MINISTER OF
NATIONAL REVENUE

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: JUNE 5, 2017

REASONS FOR JUDGMENT BY: NOËL C.J.
SCOTT J.A.
BOIVIN J.A.

DELIVERED FROM THE BENCH BY: BOIVIN J.A.

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